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January 12, 2006

Representative Mike Hawker  
State Capitol  
Room 502  
Juneau, Alaska 99801-1182

Dear Representative Hawker,

Below is the Alaska Society of Certified Public Accountants board of Directors resolution that was unanimously approved on January 9, 2006 in support of House Bill No. 274.

**Resolved:** The Alaska Society of CPA's Board of Directors unanimously agrees to Support the following proposed statute changes: Amend AS 08.04.005-680 as encompassed in the Sponsor Substitute for House Bill No.274 as drafted December 2, 2005.

The board of Directors of the Alaska Society of Certified Public Accountants and all the members of the Alaska Society of Certified Public Accountants would like to thank you and your staff for your tireless efforts in moving House Bill No. 274 forward.

Sincerely,

Donovan W. Rulien, CPA, CVA  
Chairman of the Legislative Committee

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COMMERCE**

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MANUFACTURE;  
FORFEITURE**

# Representative Mike Hawker

## Alaska State Legislature



### Session:

State Capitol  
Juneau, AK 99801  
907 465-4949 direct  
800 478-4950 toll free  
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### Interim:

116 W 4<sup>th</sup> Avenue  
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### Member:

House Finance Committee  
Legislative Budget  
& Audit Committee

### House District 32:

Eagle River  
Anchorage  
Rainbow  
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Bird  
Girdwood  
Portage  
Whittier  
Sunrise  
Hope

To: Representative Tom Anderson, Chair  
House Labor & Commerce Committee

From: Representative Mike Hawker

Handwritten initials "MH" in black ink.

Date: January 24, 2005

Re: House Bill 274

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House Bill 274, which will move Alaska's public accounting statutes toward the model Uniform Accountancy Act (UAA), will be heard in the House Labor and Commerce Committee tomorrow. This bill was essentially prepared by the Alaska Society of CPAs working with the Board of Accountancy, our office and Legislative Legal. Most of our public accounting statutes have not been updated since 1960, and the majority of this bill modernizes and conforms obsolete language.

The bill itself is really pretty confusing and the sectional is long, but the substantial parts of the bill are pretty simple.

In addition to the general modernized drafting conventions, HB 274 will accomplish the following:

### Increase portability of public accounting licenses

By allowing practice privileges to be granted to out-of-state accountants who meet "substantially equivalent" licensing standards and are temporarily practicing in Alaska, and conforming reciprocity requirements for individuals and companies to the UAA, HB 274 will encourage national firms to do business in Alaska and allow Alaskans to do business elsewhere.

### Allow the board to adopt regulations with less cost

HB 274 relaxes the requirement for notices to be sent by certified mail with a return receipt. The board is still required to notify all license holders by mail.

**Increase the quality review/peer review process**

The new legislation will require all public accountants to undergo a quality review before license renewal – currently this review is voluntary. The board will establish new regulations defining attest functions – or auditing – based on the national standard and requiring a licensee to meet competency requirements before performing attest functions.

House Bill 274 was introduced at the end of last session and went through numerous public hearings hosted by the Alaska Society of Certified Public Accountants over the interim. The current Sponsor Substitute strikes a balance between adopting uniform code that will allow more interstate commerce and maintaining Alaska's own strict standards for public protection.

While the bill does give the Board of Accountancy discretion to promulgate regulations and standards, the delayed effective date will give all affected parties time to review and comment on these regulations before statutory changes are adopted. I appreciate your consideration of this legislation. Please feel free to contact me if you have any questions or comments. You can also contact my legislative staff, Juli Lucky.



**Frank H. Murkowski, Governor**

Division of Corporations, Business and Professional Licensing  
PO Box 110806  
Juneau, AK 99811-0806  
Telephone: (907) 465-2534  
Fax: (907) 465-2974  
Website: [www.commerce.state.ak.us/occl/](http://www.commerce.state.ak.us/occl/)

January 26, 2006

Representative Mike Hawker  
State Capital  
Room 502  
Juneau, Alaska 99801-1182

Dear Representative Hawker,

Following is the Alaska Board of Public Accountancy's resolution that was unanimously approved on January 26, 2006 in support of House Bill 274.

**Be it resolved: The Alaska Board of Public Accountancy unanimously supports the Sponsor Substitute for House Bill 274 in the legislature of the State of Alaska.**

The Alaska Board would like to thank you and your staff for all your time and effort in moving House Bill 274 forward.

Sincerely,

A handwritten signature in cursive script, appearing to read "Max Mertz".

Max Mertz, CPA  
Chairperson  
Alaska Board of Public Accountancy

## Amendment

Amend Section 7, page 3, lines 22-26:

Sec. 08.04.085. Regulations regarding attest functions. Under AS 08.04.080, the board shall adopt regulations per the procedures under negotiated regulation making that identify what activities constitute attest functions. To identify activities as attest functions, the board may adopt the criteria established by a nationally recognized professional organization for accountants.

### Rationale:

- While the Alaska Board of Public Accountancy does not license independent accountants, the decisions it makes have significant impact upon the independent accountant's profession.
- The language under Section 7 provides the Board of Public Accountancy an "open book" for future changes which could negatively impact the independent accountant (i.e. restrict their practice) and the public interest (i.e. reducing competition and increasing the costs for accounting services).
- Negotiated Regulation Making procedures are used as a supplemental procedure to permit the direct participation of affected interests in the development of new regulations or the amendment or appeal of existing regulations.

## Amendment A

Amend "Safe Harbor" language in Section 48, page 27, line 11 as follows:

"I (we) have ~~prepared~~ compiled the accompanying (financial statements)..."

### Rationale:

- Alaska law allows independent accountants to perform compilations. If Alaska law does not prohibit independent accountants from "compiling", why shouldn't safe harbor language for independent accountants include the term "compile"?
- Technically, accountants do not "prepare" financial statements, the clients do; accountants REPORT on the client prepared financial statements. Many unlicensed accountants will not be able to use the safe harbor language with the term "prepared" as it could lead to liability issues.
- Independent accountants represent and cost-effectively meet the needs of a large number of individuals and small businesses across Alaska. It is in Alaskans' best interest to allow the independent accountant to compete with the CPAs in discrete market segments, such as the compilation function.

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## Amendment B

Delete Section 7, page 3, lines 22-26.

~~Sec. 08.04.085. Regulations regarding attest functions. Under AS 08.04.080, the board shall adopt regulations that identify what activities constitute attest functions. To identify activities as attest functions, the board may adopt the criteria established by a nationally recognized professional organization for accountants.~~

Note: Section 08.04.680 (1) lines 19-20 references Sec. 08.04.085 and would thus be stricken as well:

~~"attest functions" means the functions identified as attest functions by the board under AS 08.04.085;~~

### Rationale:

- While the Alaska Board of Public Accountancy does not license independent accountants, the decisions it makes have significant impact upon the independent accountant's profession.
- The language under Section 7 provides the Board of Public Accountancy an "open book" for future changes which could negatively impact the independent accountant (i.e. restrict their practice) and the public interest (i.e. reducing competition and increasing the costs for accounting services).

# Representative Mike Hawker

## Alaska State Legislature



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Hope

### House Bill 274 Sponsor Statement

**"An Act relating to the practice of accounting; and providing for an effective date."**

HB 274 updates Alaska's statutory framework regulating the professional practice of accounting. This bill moves our statutes toward the standardized structure recommended in the model National Uniform Accountancy Act developed by the American Institute of Certified Public Accountants.

Adopting these changes will facilitate the practice of Alaska public accountants in other jurisdictions, ensure the qualifications of non-resident public accountants practicing in Alaska and aid the conduct of interstate commerce. These more contemporary statutes are important to keep Alaska competitive in today's dynamic international business environment and provide the greatest possible consumer protection for the public relying upon the work performed by Certified Public Accountants.

HB 274 increases the supervision and regulation of public accountants who provide auditing services; establishes a mechanism to grant temporary practice privileges to public accountants and public accounting firms licensed in other states; expands peer quality review requirements; and ensures that public accountants meet appropriate education and experience standards.

The Alaska Society of Certified Public Accountants supports House Bill 274.

Staff Contact: Juli Lucky 465-4949

Revised 1/17/2006

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 274  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE HAWKER

Introduced: 1/11/06

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the practice of accounting; and providing for an effective date."

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

3 \* Section 1. AS 06.26.020(a)(9) is amended to read:

4 (9) has a certified public accountant license [CERTIFICATE] issued  
5 under AS 08.04.105 or 08.04.195 [AS 08.04], the person is acting within the scope of  
6 the license [CERTIFICATE], and the person and any accounting firm of the person  
7 are not trustees of more trusts than the number established for the person and  
8 accounting firm by the department by regulation or order; in this paragraph,  
9 "accounting firm" means a partnership, a professional corporation organized under  
10 AS 10.45, or another association organized for the practice of public accounting and in  
11 which the person practices public accounting;

12 \* Sec. 2. AS 08.04.005 is amended to read:

13 **Sec. 08.04.005. Purpose.** It is the policy of the state and the purpose of this  
14 chapter to promote the reliability of information that is used for guidance in financial  
15 transactions or assessing the financial status or performance of commercial,

1 noncommercial, and governmental enterprises. The public interest requires that

2 (1) persons professing special competence in accountancy or who offer  
3 assurance as to the reliability or fairness of presentation of financial information  
4 should demonstrate their qualifications to do so, and that persons who have not  
5 demonstrated and maintained adequate qualifications should not be permitted to hold  
6 themselves out as having special competence or to offer assurance about their actions;

7 (2) the professional conduct of persons licensed as having special  
8 competence in accountancy should be regulated in all aspects of the practice of public  
9 accounting [ACCOUNTANCY];

10 (3) a public authority competent to prescribe and assess the  
11 qualifications and to regulate the professional conduct of practitioners of public  
12 accounting [ACCOUNTANCY] should be established; and

13 (4) the use of titles relating to the practice of public accounting  
14 [ACCOUNTANCY] that are likely to mislead the public as to the status or  
15 competence of the persons using these titles should be prohibited.

16 \* Sec. 3. AS 08.04.020(b) is amended to read:

17 (b) Except for public members, an individual [NO ONE] may not be  
18 appointed unless the individual holds [WHO DOES NOT HOLD] a current  
19 [CERTIFICATE OR] license under AS 08.04.105 [AND WHO IS NOT ELIGIBLE  
20 TO RECEIVE PERMITS UNDER THIS CHAPTER]. Public members may not be  
21 employed by a person holding a license, permit, or practice privilege [LICENSED]  
22 under this chapter [OR BY A BUSINESS ENTITY HOLDING A PERMIT UNDER  
23 THIS CHAPTER]. Notwithstanding AS 08.01.025, an accountant who does not hold  
24 a license [IS NOT CERTIFIED OR LICENSED] under this chapter and is not  
25 engaged in the practice of public accounting [ACCOUNTANCY] in violation of this  
26 chapter is eligible for appointment as a public member under this section.

27 \* Sec. 4. AS 08.04.030 is amended to read:

28 **Sec. 08.04.030. Removal of members.** The governor shall remove any  
29 member of the board whose [CERTIFICATE OR] license has been revoked or  
30 suspended. The governor may, after hearing, remove any member for neglect of duty  
31 or other just cause.

1 \* **Sec. 5.** AS 08.04 is amended by adding a new section to read:

2           **Sec. 08.04.075. Substantial equivalency.** Upon request of an applicant for a  
3 practice privilege under AS 08.04.420(a), or on the board's own motion, the board  
4 shall determine whether the qualifications of another state or the applicant are  
5 substantially equivalent to the national standard or to another standard established by  
6 the board to protect the public interest. The board may adopt by regulation the  
7 qualifications established by a nationally recognized professional organization for  
8 accountants as the national standard or for another standard established by the board to  
9 protect the public interest. The board may accept the determination of a nationally  
10 recognized professional organization for accountants of whether the qualifications of  
11 the other state or the applicant are substantially equivalent to the national standard or  
12 to another standard established by the board to protect the public interest.

13 \* **Sec. 6.** AS 08.04.080 is amended to read:

14           **Sec. 08.04.080. Adoption of rules.** The board may adopt rules of professional  
15 conduct to establish and maintain a high standard of integrity and dignity in the  
16 profession of public accounting [ACCOUNTANCY]. At least 60 days before  
17 [PRIOR TO] the adoption of any rule or amendment, the board shall mail copies of the  
18 proposed rule or amendment together with a notice of its effective date [BY  
19 CERTIFIED MAIL, WITH RETURN RECEIPT REQUESTED,] to each holder of a  
20 license or permit issued under this chapter to the address of the license or permit  
21 holder last known to the board.

22 \* **Sec. 7.** AS 08.04 is amended by adding a new section to article 1 to read:

23           **Sec. 08.04.085. Regulations regarding attest functions.** Under AS 08.04.080,  
24 the board shall adopt regulations that identify what activities constitute attest  
25 functions. To identify activities as attest functions, the board may adopt the criteria  
26 established by a nationally recognized professional organization for accountants.

27 \* **Sec. 8.** AS 08.04. is amended by adding a new section to read:

28           **Sec. 08.04.105. License for individual to practice as a public accountant.**  
29 (a) The board shall issue a license to engage in the practice of public accounting to an  
30 individual who meets the requirements of AS 08.04.110 - 08.04.130. The license is  
31 valid for the remainder of the biennial licensing period during which the initial license

1 was granted.

2 (b) The board may renew a license granted under (a) of this section or a  
3 renewal granted under this section if the licensee

4 (1) maintains all of the licensee's offices as required by AS 08.04.360 -  
5 08.04.380;

6 (2) complies with the continuing education requirements of  
7 AS 08.04.425 and the quality review requirements of AS 08.04.426; and

8 (3) complies with the requirements of this chapter.

9 \* Sec. 9. AS 08.04.110 is amended to read:

10 Sec. 08.04.110. **Personal requirements.** An applicant for a [THE] certified  
11 public accountant license [CERTIFICATE] shall be at least 19 years of age and of  
12 good moral character.

13 \* Sec. 10. AS 08.04.120(a) is amended to read:

14 (a) The education and experience requirements for an applicant are [AS  
15 FOLLOWS:

16 (1)] a baccalaureate degree or its equivalent conferred by a college or  
17 university acceptable to the board and additional semester hours of post-baccalaureate  
18 study so that the total educational program includes at least 150 hours, with an  
19 accounting concentration or equivalent as determined by the board by regulation to be  
20 appropriate, and two years of accounting experience satisfactory to the board [; OR

21 (2) A BACCALAUREATE DEGREE OR ITS EQUIVALENT  
22 CONFERRED BY A COLLEGE OR UNIVERSITY ACCEPTABLE TO THE  
23 BOARD AND ADDITIONAL SEMESTER HOURS OF POST-BACCALAUREATE  
24 STUDY SO THAT THE TOTAL EDUCATIONAL PROGRAM INCLUDES AT  
25 LEAST 150 HOURS, AND THREE YEARS OF ACCOUNTING EXPERIENCE  
26 SATISFACTORY TO THE BOARD].

27 \* Sec. 11. AS 08.04.130 is amended to read:

28 Sec. 08.04.130. **Examination.** An applicant shall pass an examination in  
29 accounting and reporting, in auditing, and in other related subjects that the board  
30 determines appropriate. The examination shall be designated in advance by the board  
31 as the examination for the license [CERTIFICATE] of certified public accountant.

1 The board shall use the Uniform Certified Public Accountant Examination of the  
 2 American Institute of Certified Public Accountants and the institute's advisory grading  
 3 service, if available. The board shall, by regulation, establish what constitutes a  
 4 passing grade on the examination for purposes of licensure under AS 08.04.105 -  
 5 08.04.240 [AS 08.04.100 - 08.04.240].

6 \* Sec. 12. AS 08.04.180 is amended to read:

7 Sec. 08.04.180. Prior applicants. An applicant who, before April 26, 1960,  
 8 applied to take an examination for the certificate of certified public accountant, or held  
 9 a valid license as a public accountant, or was regularly enrolled in a college or  
 10 correspondence course in accounting, or a person whose registration under this chapter  
 11 is accepted by the board, shall receive a license [CERTIFICATE] when the applicant  
 12 has met either the requirements of this chapter, or the requirements that were effective  
 13 at the time the applicant's first application was filed, at the option of the applicant.

14 \* Sec. 13. AS 08.04.195 is amended to read:

15 Sec. 08.04.195. Reciprocity with other jurisdictions. (a) Notwithstanding  
 16 AS 08.04.110 - 08.04.190 [AS 08.04.100 - 08.04.130], the board may issue a license  
 17 to engage in the practice of public accounting [CERTIFICATE] to an applicant who  
 18 holds a license [CERTIFICATE], or its equivalent, issued by another state or  
 19 qualifying territory [JURISDICTION] if the applicant

20 (1) passed the Uniform Certified Public Accountant Examination of  
 21 the American Institute of Certified Public Accountants in order to receive the  
 22 applicant's initial license [CERTIFICATE] from the other state or qualifying  
 23 territory [JURISDICTION];

24 (2) has four [FIVE] years of experience outside the state in the  
 25 practice of public accounting or meets equivalent requirements established by the  
 26 board by regulation; the four [FIVE] years must occur after the applicant passes the  
 27 examination required in (1) of this subsection and within the 10 years immediately  
 28 preceding the applicant's application under this chapter;

29 (3) is not the subject of review procedures, disciplinary proceedings, or  
 30 unresolved complaints related to the applicant's license [CERTIFICATE] from  
 31 another other state or qualifying territory [JURISDICTION]; and

1 (4) is of good moral character.

2 (b) An applicant for the initial issuance of a license [CERTIFICATE] under  
3 this section shall list in the application all states or qualifying territories where the  
4 applicant has applied for or holds a license [CERTIFICATE], or its equivalent, and  
5 shall notify the board in writing within 30 days after a denial, revocation, or  
6 suspension of a license [CERTIFICATE], or the [ITS] equivalent, by another state or  
7 qualifying territory [JURISDICTION].

8 (c) The board may by regulation establish the education and continuing  
9 education requirements for the issuance of a license [CERTIFICATE] under this  
10 section.

11 \* Sec. 14. AS 08.04.200 is amended to read:

12 **Sec. 08.04.200. Use of title "certified public accountant" by individual. An**  
13 **individual** [" A PERSON] who has [RECEIVED] a license [CERTIFICATE] from  
14 the board as a certified public accountant or [AND WHO] holds a practice privilege  
15 or an out-of-state permit [CURRENT PERMIT ISSUED] under AS 08.04.420  
16 [AS 08.04.390 - 08.04.440] shall be known as a certified public accountant and may  
17 use the abbreviation "CPA."

18 \* Sec. 15. AS 08.04.210 is amended to read:

19 **Sec. 08.04.210. Effect on [EXISTING] certificates existing on April 26,**  
20 **1960.** A person who, on April 26, 1960, held a certificate as a certified public  
21 accountant issued under the laws of the Territory or State of Alaska is not required to  
22 obtain a license [CERTIFICATE] under this chapter but is otherwise subject to this  
23 chapter. Certificates issued before April 26, 1960, shall be considered licenses  
24 [CERTIFICATES] issued under this chapter.

25 \* Sec. 16. AS 08.04.240 is amended to read:

26 **Sec. 08.04.240. Registration of partnerships, limited liability companies,**  
27 **[AND] corporations, and other legal entities [COMPOSED OF CERTIFIED**  
28 **PUBLIC ACCOUNTANTS]. (a) The board shall grant a permit to engage in the**  
29 **practice of public accounting as a partnership to a [A] partnership that registers**  
30 **[ENGAGED IN THIS STATE IN THE PRACTICE OF PUBLIC ACCOUNTING**  
31 **MAY REGISTER] with the board as a partnership of certified public accountants if**

1 the partnership [IT] meets the following requirements:

2 (1) at least one general partner shall [MUST] be a certified public  
3 accountant of this state in good standing;

4 (2) each partner shall [MUST] be a certified public accountant of some  
5 state in good standing; and

6 (3) except as otherwise provided in this chapter, each resident manager  
7 in charge of an office of a partnership [FIRM] in this state [,] and each partner  
8 personally engaged in this state in the practice of public accounting as a member of  
9 that partnership shall [FIRM MUST] be a certified public accountant of this state in  
10 good standing.

11 (b) The board shall grant a permit to engage in the practice of public  
12 accounting as a corporation to a [A] corporation organized for the practice of public  
13 accounting that registers [MAY REGISTER] with the board as a corporation of  
14 certified public accountants if the corporation [IT] meets the following requirements:

15 (1) the sole purpose and business of the corporation must be to furnish  
16 to the public services not inconsistent with this chapter or the regulations adopted  
17 under it by the board; however, the corporation may invest its funds in a manner not  
18 incompatible with the practice of public accounting;

19 (2) each shareholder of the corporation shall [MUST] be a certified  
20 public accountant of some state in good standing and must be principally employed by  
21 the corporation or actively engaged in its business; no other person may have any  
22 interest in the stock of the corporation; the principal officer of the corporation and any  
23 officer or director having authority over the practice of public accounting by the  
24 corporation must be a certified public accountant of some state in good standing;

25 (3) at least one shareholder of the corporation shall [MUST] be a  
26 certified public accountant of this state in good standing;

27 (4) except as otherwise provided in this chapter, each resident manager  
28 in charge of an office of the corporation in this state and each shareholder or director  
29 personally engaged in this state in the practice of public accounting must be a certified  
30 public accountant of this state in good standing;

31 (5) to facilitate compliance with the provisions of this section relating

1 to the ownership of stock, there must be a written agreement binding the corporation  
 2 or the qualified shareholders to purchase shares offered for sale by, or not under the  
 3 ownership or effective control of, a qualified shareholder and binding a holder not a  
 4 qualified shareholder to sell these shares to the corporation or the qualified  
 5 shareholders; the agreement must be noticed on each certificate of corporate stock; the  
 6 corporation may purchase any amount of its stock for this purpose, notwithstanding  
 7 any impairment of capital, so long as one share remains outstanding;

8 (6) the corporation shall [MUST] be in compliance with those other  
 9 regulations pertaining to corporations practicing public accounting in this state that the  
 10 board may adopt.

11 (c) Registration [APPLICATION] for a permit under this section  
 12 [REGISTRATION] shall be made upon the affidavit of a general partner, member, or  
 13 shareholder who is a certified public accountant of this state in good standing. The  
 14 board shall, in each case, determine whether the applicant is eligible for a permit  
 15 under this section [REGISTRATION]. A partnership, limited liability company,  
 16 [OR] corporation, or other legal entity that is issued a permit under this section  
 17 [SO REGISTERED AND THAT HOLDS A PERMIT ISSUED UNDER  
 18 AS 08.04.400] may use the words "certified public accountants" or the abbreviation  
 19 "CPAs" in connection with the name of the [ITS] partnership, limited liability  
 20 company, corporation, or other legal entity [CORPORATE NAME]. The  
 21 [NOTIFICATION SHALL BE GIVEN THE] board shall be notified within one  
 22 month after the admission or withdrawal of a partner, member, or shareholder from a  
 23 partnership, limited liability company, [OR] corporation, or other legal entity issued  
 24 a permit [REGISTERED] under this section.

25 (d) The board shall grant a permit to engage in the practice of public  
 26 accounting as a limited liability company to a [A] limited liability company  
 27 engaged in this state in the practice of public accounting that registers [MAY  
 28 REGISTER] with the board as a limited liability company of certified public  
 29 accountants if

30 (1) the [THE] sole purpose and the sole business of the company are to  
 31 furnish to the public services that are consistent with this chapter or the regulations

1 adopted under this chapter, except that the company may invest its money in a manner  
2 that is compatible with the practice of public accounting;

3 (2) at least one member is a certified public accountant of this state in  
4 good standing;

5 (3) each member of the company is a certified public accountant in  
6 good standing of this or another state of the United States; and

7 (4) except as otherwise provided in this chapter, each resident manager  
8 in charge of an office of the company in this state and each member personally  
9 engaged in this state in the practice of public accounting are certified public  
10 accountants of this state in good standing.

11 \* Sec. 17. AS 08.04.240 is amended by adding new subsections to read:

12 (e) The board may grant a permit to engage in the practice of public  
13 accounting to a legal entity, other than a partnership, corporation, or limited liability  
14 company, if the legal entity registers with the board on a form provided by the board  
15 and satisfies other registration requirements and conditions for the legal entity that are  
16 established by the board by regulation to protect the public interest.

17 (f) An initial permit issued under (a), (b), (d), or (e) of this section lasts for the  
18 remainder of the biennial licensing period during which the initial permit was granted.

19 (g) The board shall renew a permit granted under (a), (b), (d), or (e) of this  
20 section or a renewal issued under this subsection if

21 (1) the permittee maintains all of the licensee's offices as required by  
22 AS 08.04.360 - 08.04.380;

23 (2) each individual who is required by (a), (b), (d), or (e) of this section  
24 to be a certified public accountant complies with the continuing education  
25 requirements of AS 08.04.425 and the quality review requirements of AS 08.04.426;  
26 and

27 (3) the permittee complies with the requirements of this chapter.

28 (h) A partnership registered under former AS 08.04.330 - 08.04.340 on  
29 June 29, 1980, qualifies for a permit under this section as long as each partner  
30 personally engaged in the practice of public accounting in this state holds a license or  
31 permit under AS 08.04.661.

1 \* Sec. 18. AS 08.04.360 is amended to read:

2           Sec. 08.04.360. **Supervision required.** Each office established or maintained  
3 in this state for the practice of public accounting shall be under the direct supervision  
4 of an individual [A PERSON] in residence who holds a license [PERMIT] under  
5 AS 08.04.105 or a practice privileg under AS 08.04.420 [AS 08.04.390 -  
6 08.04.440]. The supervisor may be [EITHER] a sole proprietor, partner, principal,  
7 member, or staff employee. A supervisor may serve in this capacity at one office only.

8 \* Sec. 19. AS 08.04.370 is amended to read:

9           Sec. 08.04.370. **Use of title "certified public accountant"** by  
10 [REGISTERED] office of organization. The title "certified public accountant" or the  
11 abbreviation "CPA" may not be used in connection with an office of a person holding  
12 a permit [REGISTERED] under AS 08.04.240 or 08.04.420(b) [THIS CHAPTER]  
13 unless the supervision requirement of [PERSON IN RESIDENCE REQUIRED BY]  
14 AS 08.04.360 is satisfied [A CERTIFIED PUBLIC ACCOUNTANT IN THIS  
15 STATE].

16 \* Sec. 20. AS 08.04.380 is amended to read:

17           Sec. 08.04.380. **Waiver of requirements.** The board may waive the  
18 requirements of AS 08.04.240(a)(3), (b)(4), and (d)(4), and 08.04.360 and 08.04.370 if  
19           (1) the community has a population of 2,000 or less; and  
20           (2) the individual, partnership, corporation, limited liability  
21 company or other legal entity that opens [FIRM OPENING] or maintains  
22 [MAINTAINING] the office maintains another office in the state that meets the  
23 requirements outlined in AS 08.04.360 and 08.04.370.

24 \* Sec. 21. AS 08.04.410 is amended to read:

25           Sec. 08.04.410. **Inactive** [CERTIFICATE OR] license for person not  
26 engaged in practice. Notwithstanding AS 08.04.105 or 08.04.195, an individual [A  
27 PERSON] holding a [CERTIFICATE OR] license who is not engaged in the practice  
28 of public accounting may maintain the [CERTIFICATE OR] license in good standing  
29 by notifying [REGISTERING WITH] the board that the individual is inactive and  
30 paying the required [REGISTRATION] fee.

31 \* Sec. 22. AS 08.04.420 is repealed and reenacted to read:

1           **Sec. 08.04.420. Practice privileges and out-of-state permits.** (a) An  
 2 individual whose principal place of business is in another state or a qualifying territory  
 3 who is authorized to practice public accounting in the other state or qualifying territory  
 4 but who is not licensed under AS 08.04.105 or 08.04.195 may engage in the practice  
 5 of public accounting in this state under an out-of-state practice privilege if

6                   (1) the individual submits to the board

7                           (A) an application on a form provided by the board; and

8                           (B) any fee required by the board; and

9                   (2) the board

10                           (A) verifies the individual's current authorization to practice  
 11 public accounting in the other state or qualifying territory; and

12                           (B) determines under AS 08.04.075 that

13                                   (i) the qualifications required by the other state or  
 14 qualifying territory are substantially equivalent to the national standard  
 15 or to another standard established by the board to protect the public  
 16 interest; or

17                                   (ii) the individual's qualifications are substantially  
 18 equivalent to the national standard or to another standard established by  
 19 the board to protect the public interest.

20           (b) Notwithstanding (a) of this section, an individual who has satisfied (a)(1)  
 21 of this section may engage in the practice of public accounting in this state while the  
 22 board is making the verification and determinations under (a)(2) of this section. If the  
 23 board denies a practice privilege under (a) of this section, the individual shall stop  
 24 engaging in the practice of public accounting in this state when the individual receives  
 25 the notice provided by the board under (d) of this section.

26           (c) A partnership, corporation, limited liability company, or other legal entity  
 27 whose principal place of business is in another state or a qualifying territory, that is  
 28 authorized to practice public accounting in the other state or qualifying territory, and  
 29 that does not have a permit under AS 08.04.240 may engage in the practice of public  
 30 accounting in this state under an out-of-state permit if the practice does not involve  
 31 opening an office in this state and if the partnership, corporation, limited liability

1 company or other legal entity

2 (1) submits to the board

3 (A) a written notice on a form provided by the board;

4 (B) the fee required by the board; and

5 (C) verification of the current authorization of the partnership,  
6 corporation, limited liability company, or other legal entity to practice public  
7 accounting in the other state or qualifying territory; and

8 (2) satisfies any other requirements that the board establishes by  
9 regulation to protect the public interest.

10 (d) If the board denies an individual a practice privilege under (a) of this  
11 section or denies a partnership, corporation, limited liability company, or other legal  
12 entity an out-of-state permit under (c) of this section, the board shall provide notice of  
13 the denial to the individual, partnership, corporation, limited liability company, or  
14 other legal entity.

15 (e) If a person engages in the practice of public accounting under an out-of-  
16 state permit authorized by (c) of this section, the permit does not authorize an  
17 individual who is working for the person to hold the individual out to the public as  
18 available to provide public accounting work in the state.

19 (f) Notwithstanding AS 08.01.100(b), the board shall establish by regulation  
20 how long a practice privilege authorized by (a) of this section and an out-of-state  
21 permit authorized by (c) of this section last before they expire and require renewal,  
22 except that the initial term of a practice privilege and an out-of-state permit may not  
23 exceed three years. The board may renew a practice privilege or an out-of-state permit  
24 and shall establish by regulation the terms for and length of a renewal.

25 (g) An individual, partnership, corporation, limited liability company, or other  
26 legal entity that engages in the practice of public accounting under this section

27 (1) consents to the jurisdiction and disciplinary authority of the board;

28 (2) agrees to comply with state law, including the regulations adopted  
29 by the board; and

30 (3) consents to the appointment of the board as the person's agent for  
31 the service of process upon whom process may be served in an action or a proceeding

1 against the individual, partnership, corporation, limited liability company, or other  
 2 legal entity arising out of a transaction or an operation connected with or incidental to  
 3 public accounting services performed by the individual, partnership, corporation,  
 4 limited liability company, or other legal entity while engaging in the practice of public  
 5 accounting in this state.

6 \* Sec. 23. AS 08.04 is amended by adding a new section to read:

7 Sec. 08.04.423. Competency requirement after licensing. If, at any time  
 8 after receiving a license, a licensee decides to perform attest functions, the licensee  
 9 shall meet the competency requirements established by the board by regulation.

10 \* Sec. 24. AS 08.04.425 is amended to read:

11 Sec. 08.04.425. Continuing education. (a) The board shall by regulation  
 12 prescribe requirements for continuing education for individuals with licenses  
 13 [PERSONS LICENSED TO PRACTICE AS CERTIFIED PUBLIC  
 14 ACCOUNTANTS] under this chapter. In adopting these regulations, the board may

15 (1) use and rely upon guidelines and pronouncements with respect to  
 16 continuing education issued by recognized educational and professional associations  
 17 in the field; and

18 (2) prescribe content, duration, and organization of courses or  
 19 programs that will satisfy the continuing education requirements.

20 (b) Each [AFTER THE EXPIRATION OF TWO YEARS IMMEDIATELY  
 21 FOLLOWING THE EFFECTIVE DATE OF REGULATIONS ADOPTED BY THE  
 22 BOARD UNDER (a) OF THIS SECTION, EVERY] application for renewal of a  
 23 license [PERMIT] to practice as a certified public accountant by an individual [A  
 24 PERSON] who has held a license [CERTIFICATE] as a certified public accountant  
 25 for two years or more shall be accompanied or supported by documents or other  
 26 evidence indicating satisfaction of the continuing education requirements prescribed  
 27 by the board during the two years immediately preceding the application.

28 (c) Failure by an applicant for renewal of a license, [PERMIT TO  
 29 PRACTICE] to furnish the evidence required under (b) of this section constitutes  
 30 grounds for revocation, suspension, or refusal to renew the license [PERMIT] under  
 31 AS 08.04.450 unless the board determines that failure to have been due to reasonable

1 cause or excusable neglect. However, the board may renew a license [PERMIT TO  
2 PRACTICE] despite failure to furnish evidence of satisfaction of the continuing  
3 education requirements established under (a) of this section if the applicant agrees to  
4 follow a particular program or schedule of continuing education prescribed by the  
5 board.

6 (d) In adopting regulations under (a) of this section, or in issuing individual  
7 orders under (c) of this section, the board

8 (i) shall consider

9 (A) the accessibility of applicants to the continuing education  
10 courses or programs that it may require; and

11 (B) any impediments to interstate practice of public accounting  
12 [ACCOUNTANCY] that may result from differences in continuing education  
13 requirements prescribed by other states; and

14 (2) may relax or suspend the continuing education requirements

15 (A) for applicants who certify that they do not intend to engage  
16 in the practice of public accounting [ACCOUNTANCY]; or

17 (B) in instances of individual hardship.

18 \* Sec. 25. AS 08.04.426 is repealed and reenacted to read:

19 **Sec. 08.04.426. Quality review.** (a) The board shall require as a condition for  
20 renewal of a license under AS 08.04.105 or a permit under AS 08.04.240 that the  
21 applicant for the renewal undergo a quality review conducted as required by the board  
22 by regulation.

23 (b) The quality review required by (a) of this section must include verification  
24 that the reviewing individual meets the competency requirements set out in the  
25 professional standards established by the board for the services. In this subsection,  
26 "reviewing individual" means the individual who is responsible for supervising and  
27 signing off on or authorizing another individual to sign off on attest functions  
28 performed by the applicant.

29 (c) The board shall adopt the regulations required by (a) of this section in a  
30 reasonable time before the regulations are scheduled to become effective.

31 (d) The regulations adopted under (a) of this section must require that

1 (1) an applicant demonstrate that the applicant has undergone a quality  
2 review that is a satisfactory equivalent to the quality review required by (a) of this  
3 section;

4 (2) the quality reviews be subject to supervision by an oversight body  
5 established or approved by the board;

6 (3) the quality reviews be operated and the documents be maintained  
7 in a manner that is designed to preserve confidentiality; and

8 (4) the board or another person, except for the oversight body  
9 authorized by (2) of this subsection, may not access the documents furnished or  
10 generated in the course of the quality review.

11 (e) the oversight body required by (d)(2) of this section shall

12 (1) periodically report to the board on the effectiveness of the quality  
13 review program it is supervising; and

14 (2) provide the board with a list of the applicants who have  
15 participated in a quality review program that is satisfactory to the board.

16 \* Sec. 26. AS 08.04.440 is amended to read:

17 Sec. 08.04.440. Effect of failure to obtain license, permit, or practice  
18 privilege. Failure of an individual, partnership, limited liability company, [OR]  
19 corporation, or other legal entity to apply for the required license, permit, or  
20 practice privilege [TO PRACTICE] or to pay the required fee within (1) three years  
21 from the expiration date of the license, permit, or practice privilege [TO PRACTICE  
22 OR REGISTRATION] last obtained or renewed, or (2) three years from the date  
23 [UPON WHICH] the person [CERTIFICATE HOLDER OR LICENSEE] was  
24 granted a [CERTIFICATE AS A CERTIFIED PUBLIC ACCOUNTANT OR] license  
25 or permit as a public accountant valid under AS 08.04.661 deprives the individual,  
26 partnership, limited liability company, [OR] corporation, or other legal entity of the  
27 right to a license, permit, or practice privilege [REGISTRATION] or renewal of a  
28 license, permit, or practice privilege unless the board determines that the failure is  
29 excusable. In case of excusable failure, the fee for a license, permit, or practice  
30 privilege [, REGISTRATION,] or renewal of a license, permit, or practice privilege  
31 under this section may not exceed three times one year's portion of the fee that would

1 have otherwise been required for the license, permit, or practice privilege  
 2 [REGISTRATION], or renewal.

3 \* Sec. 27. AS 08.04.450 is amended to read:

4 Sec. 08.04.450. Revocation or suspension of [CERTIFICATE,] license,  
 5 practice privilege [REGISTRATION], or permit. In addition to its powers under  
 6 AS 08.01.075, the board may revoke [OR SUSPEND A CERTIFICATE OR  
 7 LICENSE, OR MAY REVOKE], suspend, or refuse to renew a license, practice  
 8 privilege, or [ANY] permit, or may censure a [ANY CERTIFICATE] holder of a  
 9 license, practice privilege [, LICENSEE, REGISTRANT], or permit [HOLDER] for

10 (1) fraud or deceit in obtaining a [ANY CERTIFICATE,] license,  
 11 practice privilege [REGISTRATION], or permit required by this chapter;

12 (2) dishonesty or gross negligence in the practice of public accounting,  
 13 or other acts discreditable to the accounting profession;

14 (3) violation of a [ANY] provision of AS 08.04.500 - 08.04.610;

15 (4) violation of a rule of professional conduct or other regulation  
 16 adopted by the board;

17 (5) conviction of a felony under the laws of any state or of the United  
 18 States;

19 (6) conviction of any crime, an essential element of which is  
 20 dishonesty or fraud, under the laws of any state or of the United States;

21 (7) cancellation, revocation, suspension, or refusal to renew authority  
 22 to practice as a certified public accountant or public accountant in any other state for  
 23 any cause other than failure to pay a required fee;

24 (8) suspension or revocation of the right to practice before any state or  
 25 federal agency;

26 (9) failure [OF A CERTIFIED PUBLIC ACCOUNTANT] to satisfy  
 27 the continuing education requirements prescribed by the board under AS 08.04.425,  
 28 except as conditioned, relaxed, or suspended by the board under AS 08.04.425(c) and  
 29 (d); [OR]

30 (10) failure [OF A CERTIFIED PUBLIC ACCOUNTANT] to  
 31 satisfactorily complete the supervision required by AS 08.04.423 or a quality review

1 under AS 08.04.426: or

2 (11) committing an act in another state for which the holder of the  
 3 license, practice privilege, or permit would be subject to discipline in this state  
 4 [UNDER AS 08.04.426 EXCEPT AS CONDITIONED, RELAXED, OR  
 5 SUSPENDED BY THE BOARD UNDER AS 08.04.426(b) - (d)].

6 \* Sec. 28. AS 08.04.470 is amended to read:

7 Sec. 08.04.470. Revocation or suspension of permit of partnership, limited  
 8 liability company, corporation, or other legal entity [CORPORATE  
 9 REGISTRATION OR PERMIT]. The board shall revoke the [REGISTRATION  
 10 AND] permit [TO PRACTICE] of a partnership, limited liability company, [OR]  
 11 corporation, or other legal entity if at any time it does not meet the qualifications  
 12 prescribed by the sections of this chapter under which it qualified for the permit  
 13 [REGISTRATION].

14 \* Sec. 29. AS 08.04.480 is amended to read:

15 Sec. 08.04.480. Grounds for revocation or suspension of permit of  
 16 partnership, limited liability company, corporation, or other legal entity  
 17 [CORPORATE PERMIT]. The board may revoke or suspend the [REGISTRATION  
 18 AND] permit [TO PRACTICE] of a partnership, limited liability company, [OR]  
 19 corporation, or other legal entity may revoke, suspend, or refuse to renew its permit  
 20 [TO PRACTICE], or may censure the partnership, limited liability company, [OR]  
 21 corporation, or other legal entity for any of the causes enumerated in AS 08.04.450  
 22 [AND 08.04.460,] or for any of the following additional causes:

23 (1) the revocation or suspension of the [CERTIFICATE,] license [,] or  
 24 practice privilege [REGISTRATION] of a [ANY] partner, a member, a [OR]  
 25 shareholder, or, if the permittee is a legal entity other than a partnership,  
 26 corporation, or limited liability company, an owner of the permittee:

27 (2) the revocation, suspension, or refusal to renew the permit [TO  
 28 PRACTICE] of a [ANY] partner, a member, or a shareholder, or, if the permittee is  
 29 a legal entity other than a partnership, corporation, or limited liability company,  
 30 an owner of the permittee:

31 (3) the cancellation, revocation, suspension, or refusal to renew the

1 authority of the partnership or any partner, the limited liability company or a member,  
 2 [OR] the corporation or a shareholder, or the other legal entity to practice public  
 3 accounting in another state for any cause other than failure to pay a required fee in that  
 4 state.

5 \* Sec. 30. AS 08.04.490 is amended to read:

6 **Sec. 08.04.490. Reinstatement.** Upon application in writing and after a  
 7 hearing, the board may issue a new license or practice privilege [CERTIFICATE] to  
 8 an individual [A CERTIFIED PUBLIC ACCOUNTANT] whose license or practice  
 9 privilege [CERTIFICATE] has been revoked, or may issue a new permit to a person  
 10 [REREGISTRATION OF ONE] whose permit [REGISTRATION] has been revoked,  
 11 or may modify the suspension of or may reissue any [CERTIFICATE,] license,  
 12 practice privilege, or permit to practice public accounting that has been revoked or  
 13 suspended.

14 \* Sec. 31. AS 08.04.495 is amended to read:

15 **Sec. 08.04.495. Fees.** The Department of Commerce, Community, and  
 16 Economic Development shall set fees under AS 08.01.065 for examinations,  
 17 reexaminations, permits, licenses, and practice privileges [CERTIFICATES, AND  
 18 REGISTRATIONS].

19 \* Sec. 32. AS 08.04.500 is amended to read:

20 **Sec. 08.04.500. Individual posing as a certified public accountant.** (a) An  
 21 individual [A PERSON] may not assume or use the title or designation "certified  
 22 public accountant" or the abbreviation "CPA" or any other title, designation, word,  
 23 letter, abbreviation, sign, card, or device tending to indicate that the individual  
 24 [PERSON] is a certified public accountant, unless the individual [PERSON] has  
 25 received a license [CERTIFICATE, HOLDS A LIVE PERMIT,] and all of the  
 26 individual's [PERSON'S] offices in this state for the practice of public accounting are  
 27 maintained as required by AS 08.04.360 - 08.04.380.

28 (b) This section does not prohibit an individual [A CERTIFIED PUBLIC  
 29 ACCOUNTANT] in good standing in any state holding a practice privilege  
 30 [PERMIT] under AS 08.04.420 from using the title "certified public accountant." [.]

31 \* Sec. 33. AS 08.04.505 is amended to read:

1           **Sec. 08.04.505. Issuance of reports.** Only a person who [OR FIRM THAT]  
 2 holds a valid license, practice privilege, or permit issued under this chapter may issue  
 3 a report on financial statements of another person [, FIRM, ORGANIZATION,] or  
 4 governmental unit. This restriction does not apply to

5           (1) an officer, partner, member, or employee of a sole proprietorship,  
 6 partnership, corporation, limited liability company, or other legal entity [FIRM  
 7 OR ORGANIZATION] affixing that person's signature to a statement or report in  
 8 reference to the financial affairs of the sole proprietorship, partnership,  
 9 corporation, limited liability company, or other legal entity [FIRM OR  
 10 ORGANIZATION] with wording designating the position, title, or office that the  
 11 person holds in the sole proprietorship, partnership, corporation, limited liability  
 12 company, or other legal entity [FIRM OR ORGANIZATION];

13           (2) an act of a public official or employee in the performance of  
 14 official duties;

15           (3) the performance by persons of other services involving the use of  
 16 accounting skills, including the preparation of tax returns, management advisory  
 17 services, and the preparation of financial statements without the issuance of reports on  
 18 them.

19 \* **Sec. 34.** AS 08.04.510 is amended to read:

20           **Sec. 08.04.510. Partnership, limited liability company, [OR] corporation,**  
 21 **or other entity posing as a certified public accountant.** (a) A partnership, limited  
 22 liability company, [OR] corporation, or other entity may not assume or use the title  
 23 or designation "certified public accountant" or the abbreviation "CPA" or any other  
 24 title, designation, word, letter, abbreviation, sign, card, or device tending to indicate  
 25 that it is composed of certified public accountants, unless the partnership, limited  
 26 liability company, [OR] corporation, or other entity [IS REGISTERED AND] holds a  
 27 [LIVE] permit under AS 08.04.240, is engaging in the practice of public  
 28 accounting [PRACTICING] under the [ITS REGISTERED] name on its permit, and  
 29 its offices in this state for the practice of public accounting are maintained as required  
 30 by AS 08.04.360 - 08.04.380.

31           (b) A partnership, limited liability company, [OR] corporation, or other

1 entity consisting of certified public accountants in good standing in any state, that  
 2 does not have a permit [REGISTERED] as a partnership, limited liability company,  
 3 [OR] corporation, or other legal entity consisting of certified public accountants  
 4 under AS 08.04.240 but holds [HOLDING] a permit under AS 08.04.420, may use the  
 5 title or designation "certified public accountants."

6 \* Sec. 35. AS 08.04.520 is amended to read:

7 Sec. 08.04.520. Individual posing as public accountant. An individual [A  
 8 PERSON] may not assume or use the title or designation "public accountant" or the  
 9 abbreviation "PA" or other title, designation, word, letter, abbreviation, sign, card, or  
 10 device tending to indicate that the individual [THAT PERSON] is a public  
 11 accountant, unless the individual [PERSON] holds a license, practice privilege, or  
 12 [LIVE] permit and the individual's [PERSON'S] offices in this state for the practice  
 13 of public accounting are maintained as required by AS 08.04.360 - 08.04.380.

14 \* Sec. 36. AS 08.04.530 is amended to read:

15 Sec. 08.04.530. Partnership, limited liability company, or corporation  
 16 posing as public accountant. A partnership, limited liability company, or corporation  
 17 may not assume or use the designation "public accountant" or the abbreviation "PA"  
 18 or any other title, designation, word, letter, abbreviation, sign, card, or device tending  
 19 to indicate that the partnership, limited liability company, or corporation is composed  
 20 of public accountants, unless the partnership, limited liability company, or corporation  
 21 holds a current [LIVE] permit, is practicing under its registered name, and its office  
 22 in this state for the practice of public accounting is maintained as required by  
 23 AS 08.04.360 - 08.04.380.

24 \* Sec. 37. AS 08.04.540 is amended to read:

25 Sec. 08.04.540. Use of deceptive title or abbreviation. An individual,  
 26 partnership, limited liability company, [OR] corporation, or other entity may not  
 27 assume or use the title or designation "certified accountant," [,] "chartered  
 28 accountant," [,] "enrolled accountant," [,] "licensed accountant," [,] "registered  
 29 accountant," [,] or any other title or designation likely to be confused with "certified  
 30 public accountant" or "public accountant," [,] or any of the abbreviations "C," [,]  
 31 "EA," [,] "LA," [,] "RA," [,] or similar abbreviations likely to be confused with "CPA"

# CORRECTION

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



Rev. 6/98

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

1 entity consisting of certified public accountants in good standing in any state, that  
 2 does not have a permit [REGISTERED] as a partnership, limited liability company,  
 3 [OR] corporation, or other legal entity consisting of certified public accountants  
 4 under AS 08.04.240 but holds [HOLDING] a permit under AS 08.04.420, may use the  
 5 title or designation "certified public accountants."

6 \* Sec. 35. AS 08.04.520 is amended to read:

7 **Sec. 08.04.520. Individual posing as public accountant.** An individual [A  
 8 PERSON] may not assume or use the title or designation "public accountant" or the  
 9 abbreviation "PA" or other title, designation, word, letter, abbreviation, sign, card, or  
 10 device tending to indicate that the individual [THAT PERSON] is a public  
 11 accountant, unless the individual [PERSON] holds a license, practice privilege, or  
 12 [LIVE] permit and the individual's [PERSON'S] offices in this state for the practice  
 13 of public accounting are maintained as required by AS 08.04.360 - 08.04.380.

14 \* Sec. 36. AS 08.04.530 is amended to read:

15 **Sec. 08.04.530. Partnership, limited liability company, or corporation**  
 16 **posing as public accountant.** A partnership, limited liability company, or corporation  
 17 may not assume or use the designation "public accountant" or the abbreviation "PA"  
 18 or any other title, designation, word, letter, abbreviation, sign, card, or device tending  
 19 to indicate that the partnership, limited liability company, or corporation is composed  
 20 of public accountants, unless the partnership, limited liability company, or corporation  
 21 holds a current [LIVE] permit, is practicing under its registered name, and its office  
 22 in this state for the practice of public accounting is maintained as required by  
 23 AS 08.04.360 - 08.04.380.

24 \* Sec. 37. AS 08.04.540 is amended to read:

25 **Sec. 08.04.540. Use of deceptive title or abbreviation.** An individual,  
 26 partnership, limited liability company, [OR] corporation, or other entity may not  
 27 assume or use the title or designation "certified accountant," [,] "chartered  
 28 accountant," [,] "enrolled accountant," [,] "licensed accountant," [,] "registered  
 29 accountant," [,] or any other title or designation likely to be confused with "certified  
 30 public accountant" or "public accountant," [,] or any of the abbreviations "C," [,]  
 31 "EA," [,] "LA," [,] "RA," [,] or similar abbreviations likely to be confused with "CPA"

1 or "PA" except that "EA" may be used to the extent that it relates to the term "enrolled  
2 agent" as defined by the federal Internal Revenue Service; however, an individual,  
3 partnership, limited liability company, [OR] corporation, or other legal entity holding  
4 a current license, [LIVE] permit under AS 08.04.240, or practice privilege and  
5 whose offices in this state for the practice of public accounting are maintained as  
6 required by AS 08.04.360 - 08.04.380 may hold out to the public as an accountant or  
7 auditor.

8 \* Sec. 38. AS 08.04.560 is amended to read:

9 **Sec. 08.04.560 Individual may not assume title.** An individual [A  
10 PERSON] may not sign or affix any name or any trade or assumed name used by that  
11 individual [PERSON] to any accounting or financial statement [,] or opinion or report  
12 on any accounting or financial statement with any wording indicating that the person  
13 is a certified public accountant or public accountant or with any wording indicating  
14 that the person has expert knowledge in accounting or auditing, unless the individual  
15 [PERSON] holds a current license or practice privilege [LIVE PERMIT] and the  
16 individual's [PERSON'S] offices in this state for the practice of public accounting are  
17 maintained as required by AS 08.04.360 - 08.04.380.

18 \* Sec. 39. AS 08.04.580 is amended to read:

19 **Sec. 08.04.580. Partnership posing as accountants or auditors.** A person  
20 may not sign or affix a partnership name to any accounting or financial statement [,] or  
21 opinion or report on any accounting or financial statement with any wording  
22 indicating that it is a partnership composed of certified public accountants or public  
23 accountants or with any wording indicating that the partnership has expert knowledge  
24 in accounting or auditing unless the partnership holds a current [LIVE] permit, it  
25 practicing under the [ITS REGISTERED] name on its permit, and its offices in this  
26 state for the practice of public accounting are maintained as required by AS 08.04.360  
27 - 08.04.380.

28 \* Sec. 40. AS 08.04.590 is amended to read:

29 **Sec. 08.04.590 Use of title with corporate name.** A person may not sign or  
30 affix a corporate name to any accounting or financial statement [,] or opinion or report  
31 on any accounting or financial statement with any wording indicating that it is a

1 corporation composed of certified public accountants or public accountants or with  
2 any wording indicating that the corporation has expert knowledge in accounting or  
3 auditing unless the corporation holds a current [LIVE] permit, it is practicing under  
4 the [ITS REGISTERED] name on the permit, and its offices in this state for the  
5 practice of public accounting are maintained as required by AS 08.04.360 - 08.04.380.

6 \* Sec. 41. AS 08.04.595 is amended to read:

7 **Sec. 08.04.595. Use of title with limited liability company name.** A person  
8 may not sign or affix a limited liability company name to an accounting or financial  
9 statement, or opinion or report on an accounting or financial statement, with wording  
10 indicating that the person is a limited liability company composed of certified public  
11 accountants or public accountants or with wording indicating that the company has  
12 expert knowledge in accounting or auditing unless the company holds a current  
13 [LIVE] permit, it is practicing under the [ITS REGISTERED] name on the permit,  
14 and its offices in this state for the practice of public accounting are maintained as  
15 required by AS 08.04.360 - 08.04.380.

16 \* Sec. 42. AS 08.04 is amended by adding a new section to read:

17 **Sec. 08.04.598. Use of title with name of other entity.** A person may not sign  
18 or affix the name of an entity to an accounting or financial statement or opinion or  
19 report on an accounting or financial statement with wording indicating that the person  
20 is a legal entity composed of certified public accountants or public accountants or with  
21 wording indicating that the entity has expert knowledge in accounting or auditing  
22 unless the entity holds a current permit, it is practicing under the name on the permit,  
23 and its offices in this state for the practice of public accounting are maintained as  
24 required by AS 08.04.360 - 08.04.380.

25 \* Sec. 43. AS 08.04.600 is amended to read:

26 **Sec. 08.04.600. Disclosure of lack of license or permit.** An individual,  
27 partnership, limited liability company, [OR] corporation, or other entity that does not  
28 hold a current license, a current practice privilege, or a current [LIVE] permit  
29 under AS 08.04.240 may not hold out to the public as a certified public accountant or  
30 public accountant by use of such words or abbreviations on any sign, card, letterhead,  
31 or in any advertisement or directory, without indicating that the individual,

1 partnership, limited liability company, [OR] corporation, or other entity does not  
 2 hold a current license, a current practice privilege, or a current permit under  
 3 AS 08.04.240. This section does not prohibit

4 (1) an officer, employee, partner, member, or principal of an  
 5 organization from self-description through the position, title, or office that the person  
 6 holds in the organization;

7 (2) an act of a public official or public employee in the performance of  
 8 that individual's duties; or

9 (3) a person from maintaining a bookkeeping or tax service.

10 \* Sec. 44. AS 08.04.610 is amended to read:

11 **Sec. 08.04.610. Deceptive use of title or designation by partnership, limited**  
 12 **liability company, [OR] corporation [TITLE], or other entity.** A person may not  
 13 assume or use the title or designation "certified public accountant" or "public  
 14 accountant" or an abbreviation of them, in conjunction with a name indicating or  
 15 implying that there is a partnership, limited liability company, [OR] corporation, or  
 16 other entity, or in conjunction with the designation "and Company," "and Co.,"  
 17 "L.L.C.," "LLC," "Ltd.," or any similar designation unless there is a bona fide  
 18 partnership, limited liability company, [OR] corporation, or other legal entity  
 19 registered under that name. However, a sole proprietor or partnership lawfully using  
 20 the title or designation "certified public accountant" or "public accountant" or an  
 21 abbreviation of them in conjunction with such names or designation on April 26, 1960,  
 22 may continue to do so if the person or partnership otherwise complies with this  
 23 chapter.

24 \* Sec. 45. AS 08.04.620 is amended to read:

25 **Sec. 08.04.620. Exceptions.** This chapter does not prohibit

26 (1) an individual who does [A PERSON] not hold a current license  
 27 or practice privilege [A CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC  
 28 ACCOUNTANT] from serving as an employee of or as an assistant to an individual,  
 29 partnership, limited liability company, [OR] corporation, or other legal entity holding  
 30 a current license, a current practice privilege, or a current [LIVE] permit under  
 31 AS 08.04.240 so long as the employee or assistant does not use the employee's or the

1 assistant's name in connection with an accounting or financial statement;

2 (2) an individual who holds a valid license or equivalent  
 3 authorization in another state [A CERTIFIED PUBLIC ACCOUNTANT OR  
 4 PUBLIC ACCOUNTANT] from indicating that the individual is entitled to use the  
 5 title "certified public accountant" [OR PUBLIC ACCOUNTANT HOLDS A  
 6 CERTIFICATE OR LICENSE ENTITLING THE CERTIFIED PUBLIC  
 7 ACCOUNTANT OR PUBLIC ACCOUNTANT TO THAT DESIGNATION IF THE  
 8 CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT HOLDS A  
 9 VALID CERTIFICATE OR LICENSE IN ANY STATE], but the individual  
 10 [PERSON] may not indicate that services are available to the public unless the  
 11 individual [CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT]  
 12 holds a current license or practice privilege [LIVE PERMIT] issued under this  
 13 chapter;

14 (3) a holder of a certificate, license, or degree from a foreign country  
 15 that [WHICH] constitutes a recognized qualification for the practice of public  
 16 accounting in that country from indicating that the person holds the certificate, license,  
 17 or degree, but the person may not indicate that the person's services are available to  
 18 the public unless the person holds a current license, practice privilege, or [LIVE]  
 19 permit issued under this chapter.

20 \* Sec. 46. AS 08.04.661 is amended to read:

21 Sec. 08.04.661. **Previous licensure.** A person holding a valid license as a  
 22 public accountant under former AS 08.04.270 or a person holding a valid permit under  
 23 former AS 08.04.390 on June 29, 1980, may continue to practice under the conditions  
 24 imposed by statute and regulation on that date but that person is otherwise subject to  
 25 this chapter. A license or permit effective under this section may be renewed under  
 26 conditions imposed by statute and regulation that were in effect on June 29, 1980,  
 27 except that any renewal fee required under this chapter applies.

28 \* Sec. 47. AS 08.04.662(a) is amended to read:

29 (a) A licensee, a holder of a practice privilege, or a partner, an officer, a  
 30 shareholder, a member, or an employee of a licensee or holder of a practice  
 31 privilege [,] may not reveal information communicated to the licensee or practice

1 privilege holder by a client about a matter concerning which the client has employed  
 2 the licensee or practice privilege holder in a professional capacity. This section does  
 3 not apply to

4 (1) information required to be disclosed by the standards of the public  
 5 accounting [ACCOUNTANCY] profession in reporting on the examination of  
 6 financial statements;

7 (2) the release of information the client has authorized the licensee or  
 8 practice privilege holder to reveal;

9 (3) information revealed as part of the discovery of evidence related to  
 10 a court or administrative proceeding or introduced in evidence in a court or  
 11 administrative proceeding;

12 (4) information revealed in ethical investigations conducted by private  
 13 professional organizations; or

14 (5) information revealed in the course of a quality review under  
 15 AS 08.04.426.

16 \* Sec. 48. AS 08.04.680 is amended to read:

17 Sec. 08.04.680. Definitions. In this chapter, unless the context indicates  
 18 otherwise,

19 X (1) "attest functions" means the functions identified as attest  
 20 functions by the board under AS 08.04.085;

21 (2) "board" means the Board of Public Accountancy;

22 (3) [(2)] "certificate" means certificate as a certified public accountant;

23 (4) " legal entity" means an organization that can organize as a  
 24 legal person under the laws of this state;

25 (5) [(3)] "license" means a license issued under AS 08.04.105 or  
 26 08.04.195 [AS A PUBLIC ACCOUNTANT];

27 (6) [(4)] "limited liability company" means an organization organized  
 28 under AS 10.50 or a foreign limited liability company; in this paragraph, "foreign  
 29 limited liability company" has the meaning given in AS 10.50.990;

30 (7) [(5)] "LIVE PERMIT" MEANS A PERMIT ISSUED UNDER  
 31 AS 08.04.390 - 08.04.425;

1 (6) "member" means a person who has been admitted to membership  
2 in a limited liability company;

3 (8) "partnership" means a general partnership, a limited  
4 partnership, a limited liability partnership, or another form of partnership;

5 (9) "permit" means a permit issued under AS 08.04.240 or  
6 08.04.420;

7 (10) "practice of public accounting" means the offering to perform  
8 or the performance as a person holding a license, practice privilege, or permit  
9 under this chapter of a service involving the use of accounting or auditing skills;  
10 in this paragraph, "accounting or auditing skills" includes preparing financial  
11 statements, issuing reports on financial statements, furnishing management  
12 services, furnishing financial advisory services, providing consulting services,  
13 preparing tax returns, advising on tax matters, or consulting on tax matters;

14 (11) "practice privilege" means a practice privilege authorized  
15 under AS 08.04.420;

16 (12) "principal place of business" means the fixed location  
17 designated by the partnership, corporation, limited liability company, or other  
18 legal entity as the location from which the partnership, corporation, limited  
19 liability company, or other legal entity directs, controls, and coordinates the  
20 majority of the business activities of the partnership, corporation, limited liability  
21 company, or other legal entity;

22 (13) [(7)] "quality review" means a study, appraisal, or review of one  
23 or more aspects of the professional work of a person [OR FIRM] in the practice of  
24 public accounting [ACCOUNTANCY], by a person [OR PERSONS] who holds a  
25 certificate [HOLD CERTIFICATES] and who is [ARE] not affiliated with the person  
26 [OR FIRM] being reviewed, conducted as prescribed under AS 08.04.426;

27 (14) [(8)] "report," when used with reference to financial statements,  
28 means an opinion, report, or other form of language that states or implies assurance as  
29 to the reliability of financial statements and that also includes or is accompanied by a  
30 statement or implication that the person [OR FIRM] issuing it has special knowledge  
31 or competency in accounting or auditing; a statement or implication of special

1 knowledge or competence may arise from use by the issuer of the report of names or  
2 titles indicating that the issuer is a certified public accountant or auditor, or from the  
3 language of the report itself; except as provided in this paragraph, "report" includes  
4 any form of language that disclaims an opinion when the form of the language is  
5 conventionally understood to imply a positive assurance as to the reliability of the  
6 financial statements referred to or special competence on the part of the person [OR  
7 FIRM] issuing the language; and "report" includes any other form of language that is  
8 conventionally understood to imply such assurance or such special knowledge or  
9 competence; "report" does not include the following disclaimer language when used  
10 by nonlicensees in connection with financial statements:

11 (A) "I (we) have prepared the accompanying (financial  
12 statements) of (name or entity) as of (time period) for the (period) then  
13 ended. This presentation is limited to preparing, in the form of financial  
14 statements, information that is the representation of management  
15 (owners)."; or

16 (B) "I (we) have not audited or reviewed the accompanying  
17 financial statements and, accordingly, do not express an opinion or any  
18 other form of assurance on them." [COMPILATION OF FINANCIAL  
19 STATEMENT LANGUAGE THAT DOES NOT EXPRESS OR IMPLY  
20 ASSURANCE OR SPECIAL KNOWLEDGE OR COMPETENCE.]

21 \* Sec. 49. AS 08.04.390, 08.04.400, and 08.04.460 are repealed.

22 \* Sec. 50. The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24 TRANSITIONAL PROVISIONS: REGULATIONS. The Board of Public  
25 Accountancy created under AS 08.04.010 may proceed to adopt regulations necessary to  
26 implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure  
27 Act), but not before the effective date of secs. 1 - 49 of this Act.

28 \* Sec. 51. The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 TRANSITIONAL PROVISIONS: EFFECT ON CURRENT PERMITTEES. (a) On  
31 and after January 1, 2008, an individual with a current permit issued under former

1 AS 08.04.390 may

2 (1) continue to operate under the permit until the permit expires normally  
3 under former AS 08.04, as that chapter existed before January 1, 2008, and then receive a  
4 license renewal under AS 08.04.105, as added by sec. 8 of this Act; or

5 (2) renew the permit before it expires normally, and receive a license renewal  
6 under AS 08.04.105, as added by sec. 8 of this Act.

7 (b) Until an individual who is eligible for a license under (a) of this section receives a  
8 license under (a) of this section, the individual satisfies the license requirement of  
9 AS 06.26.020(a)(9), as amended by sec. 1 of this Act, even though the individual is not  
10 holding the license required by AS 06.26.020(a)(9).

11 (c) On and after January 1, 2008, a partnership, corporation, or limited liability  
12 company with a current permit issued under former AS 08.04.400 or the provisions of  
13 08.04.420 before amendment by sec. 22 of this Act may

14 (1) continue to operate under the permit until the permit expires normally  
15 under former AS 08.04, as that chapter existed before January 1, 2008, and then receive a  
16 permit renewal under AS 08.04.240(g), as added by sec. 17 of this Act, or under  
17 AS 08.04.420, as repealed and reenacted by sec. 22 of this Act; or

18 (2) renew the permit under AS 08.04.240(g), as added by sec. 17 of this Act,  
19 before it expires normally.

20 \* Sec. 52. The uncoded law of the State of Alaska is amended by adding a new section to  
21 read:

22 TRANSITIONAL PROVISIONS: MEMBERSHIP OF BOARD. AS 08.04.020, as  
23 amended by sec. 3 of this Act, does not apply to a member of the Board of Public  
24 Accountancy who is a member of the Board of Public Accountancy on the effective date of  
25 this section until the term of the board member expires normally under former AS 08.04.020,  
26 as that section existed before January 1, 2008.

27 \* Sec. 53. Section 50 of this Act takes effect immediately under AS 01.10.070(c).

28 \* Sec. 54. Except as provided in sec. 53 of this Act, this Act takes effect January 1, 2008.

**HB**

**286**





# REPRESENTATIVE RALPH SAMUELS

## HOUSE DISTRICT 29

### Sponsor Statement HB 286

**“An Act amending the manner of determining the royalty received by the state on gas production by directing the commissioner of natural resources to accept, under certain circumstances, the transfer price of the gas if established by transfer price order of the Regulatory Commission of Alaska; and providing for an effective date.”**

Anchorage Municipal Light and Power is proposing a housekeeping amendment to AS 38.05.180(aa). The amendment will allow the Department of Natural Resources to use the transfer price for gas set by the Regulatory Commission of Alaska to value the State's share of royalty gas. The amendment reflects language as proposed by ML&P and modified at DNR's request. DNR does not oppose this amendment.

Since 1986, Alaska utilities have been able to use the price set in their long-term gas purchase contracts as the value for royalty gas values.

ML&P has used (aa) for the gas ML&P uses from its share of the Beluga River Field. DNR agreed to let ML&P continue to receive (aa) treatment based on the ML&P/Shell contract even after ML&P bought Shell's interest in the field. But that contract expires at the end of 2005. While ML&P's share in the Beluga River Field will assure ML&P of a supply of gas, in the absence of the proposed legislation, ML&P will not be able to continue to receive (aa) treatment for its gas.

The proposed legislation adds language that allows DNR to use the gas transfer price set by the RCA much like DNR uses the contract price for gas. The transfer price is the rate ML&P is required to charge itself for the Beluga Field gas it uses. The proposed amendment allows DNR to give (aa) treatment not only to an arms-length gas supply contract, but also to RCA-approved orders setting the transfer price when a utility uses its own natural gas.

The proposed amendment is consistent with the purpose of the original law. It will allow ML&P to continue to receive the benefits the Legislature intended to provide to consumers. It assures that rigorous and fair regulatory process will be used to set the price for royalty gas. The fiscal impact will be minimal compared to the (aa) treatment ML&P presently receives. This amendment will help ensure that Anchorage electric consumers have certainty and stability in their electric rates.

Email: [Representative\\_Ralph\\_Samuels@legis.state.ak.us](mailto:Representative_Ralph_Samuels@legis.state.ak.us)

Session: Alaska State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-2095 Fax: (907) 465-3810  
Interim: 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • Phone: (907) 269-0240 Fax: (907) 269-0242

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 286  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dep. Affected: Commerce  
 Title Value of Royalty on Gas Production RDU Regulatory Commission of Alaska (399)  
 Component Regulatory Commission of Alaska  
 Sponsor Samuels  
 Requester House Oil & Gas Component No. 2417

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 Matc )						
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 (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB 286 contemplates changes to DNR's statute, AS 38, by directing the DNR Commissioner to accept, under certain circumstances, the transfer price of the gas if established by transfer price order of the Regulatory Commission of Alaska. Such activity is within the scope of the RCA's normal operations; consequently, no fiscal impact on the agency is anticipated.

Prepared by: Kate Giard, Chairman Phone (907) 263-2110  
 Division Regulatory Commission of Alaska Date/Time 4/28/05 12:15 PM  
 Approved by: Edgar Blatchford, Commissioner Date 4/28/2005  
 Agency Commerce, Community, and Economic Development

**HB**

**295**



24-LS0843\G  
Bannister  
1/20/06

CS FOR HOUSE BILL NO. 295( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE ANDERSON

A BILL  
FOR AN ACT ENTITLED

1 "An Act adopting the Uniform Fraudulent Transfer Act and relating to fraudulent  
2 transfers of property."

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

4 \* Section 1. AS 34.40.050 is amended to read:

5           Sec. 34.40.050. Conveyance in exercise of power to revoke and reconvey.  
6           Unless the conveyance is a fraudulent transfer subject to AS 34.40.220 -  
7           34.40.390, where [WHERE] a power to revoke a conveyance of land, or the rents and  
8           profits from it, and to reconvey the land or the rents and profits is given to a person  
9           other than the grantor in the conveyance, and the person subsequently conveys the  
10          land, rents, or profits to a purchaser for a valuable consideration, the subsequent  
11          conveyance is valid in the same manner and to the same extent as if the power of  
12          revocation were recited in it and the intent to revoke the former conveyance expressly  
13          declared.

14 \* Sec. 2. AS 34.40.060 is amended to read:

1           **Sec. 34.40.060. Conveyance before accrual of right to execute power of**  
2           **revocation. Unless the conveyance is a fraudulent transfer subject to**  
3           **AS 34.40.220 - 34.40.390, if [IF] a conveyance to a purchaser under either**  
4           AS 34.40.040 or 34.40.050 is made before the person making the conveyance is  
5           entitled to execute the power of revocation, it nevertheless is valid from the time the  
6           power of revocation actually vests in the person, in the same manner and to the same  
7           extent as if then made.

8           \* **Sec. 3. AS 34.40.080 is amended to read:**

9           **Sec. 34.40.080. Invalidity against heirs, successors, representatives, or**  
10           **assigns. Notwithstanding AS 34.40.220 - 34.40.390, a [A] conveyance, charge,**  
11           instrument, or proceeding declared by law to be void as against the creditors,  
12           purchasers, or mortgages is equally void as against the heirs, successors, personal  
13           representatives, or assigns of the creditors, purchasers, or mortgages.

14           \* **Sec. 4. AS 34.40.110(e) is amended to read:**

15           (e) If a trust contains a transfer restriction allowed under (a) of this section, the  
16           transfer restriction prevents a creditor existing when the trust is created, a person who  
17           subsequently becomes a creditor, or another person from asserting any cause of action  
18           or claim for relief against a trustee of the trust or against others involved in the  
19           preparation or funding of the trust for conspiracy to commit a fraudulent conveyance,  
20           a fraudulent transfer under AS 34.40.220 - 34.40.390, aiding and abetting a  
21           fraudulent conveyance or a fraudulent transfer under AS 34.40.220 - 34.40.390, or  
22           participation in the trust transaction. Preparation or funding of the trust includes the  
23           preparation and funding of a limited partnership or a limited liability company if  
24           interest in the limited partnership or limited liability company are subsequently  
25           transferred to the trust. The creditor and other person prevented from asserting a cause  
26           of action or claim for relief are limited to recourse against the trust assets and the  
27           settlor to the extent allowed under AS 34.40.220 - 34.40.390 [AS 34.40.010].

28           \* **Sec. 5. AS 34.40 is amended by adding new sections to read:**

29                           **Article 2. Uniform Fraudulent Transfer Act.**

30                           **Sec. 34.40.220. Insolvency.** (a) A debtor is insolvent if the sum of the debtor's  
31                           debts is greater, at a fair valuation, than all of the debtor's assets.

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(b) A debtor who is generally not paying the debtor's debts as they become due is presumed to be insolvent.

(c) A partnership is insolvent under (a) of this section if the sum of the partnership's debts is greater than the aggregate of all of the partnership's assets, at a fair valuation, and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.

(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under AS 34.40.220 - 34.40.390.

(e) Debts under this section do not include an obligation to the extent the obligation is secured by a valid lien on property of the debtor not included as an asset.

**Sec. 34.40.230. Value.** (a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise that is not made in the ordinary course of the promisor's business and that is a promise to furnish support to the debtor or another person.

(b) For the purposes of AS 34.40.240(a)(2) and 34.40.250, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset under a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor on default under a mortgage, deed of trust, or security agreement.

(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is, in fact, substantially contemporaneous.

**Sec. 34.40.240. Transfers fraudulent as to present and future creditors.** (a) A transfer made or an obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation

(1) with the actual intent to hinder, delay, or defraud a creditor of the debtor; or

1 (2) without receiving a reasonably equivalent value in exchange for the  
2 transfer or obligation, and the debtor

3 (A) was engaged or was about to engage in a business or a  
4 transaction for which the remaining assets of the debtor were unreasonably  
5 small in relation to the business or transaction; or

6 (B) intended to incur, or believed or reasonably should have  
7 believed that the debtor would incur, debts beyond the debtor's ability to pay as  
8 they became due.

9 (b) In determining actual intent under (a)(1) of this section, consideration may  
10 be given, among other factors, to whether

11 (1) the transfer or obligation was to an insider;

12 (2) the debtor retained, after the transfer, possession or control of the  
13 property transferred;

14 (3) the transfer or obligation was disclosed or concealed;

15 (4) before the transfer was made or the obligation was incurred, the  
16 debtor had been sued or threatened with suit;

17 (5) the transfer was of substantially all the debtor's assets;

18 (6) the debtor absconded;

19 (7) the debtor removed or concealed assets;

20 (8) the value of the consideration received by the debtor was  
21 reasonably equivalent to the value of the asset transferred or the amount of the  
22 obligation incurred;

23 (9) the debtor was insolvent or became insolvent shortly after the  
24 transfer was made or the obligation was incurred;

25 (10) the transfer occurred shortly before or shortly after a substantial  
26 debt was incurred; and

27 (11) the debtor transferred the essential assets of the business to a  
28 lienor who transferred the assets to an insider of the debtor.

29 **Sec. 34.40.250. Transfers fraudulent as to present creditors.** (a) A transfer  
30 made or an obligation incurred by a debtor is fraudulent as to a creditor whose claim  
31 arose before the transfer was made or the obligation was incurred if the debtor made

1 the transfer or incurred the obligation without receiving a reasonably equivalent value  
2 in exchange for the transfer or obligation and the debtor was insolvent at that time or  
3 became insolvent as a result of the transfer or obligation.

4 (b) In addition to the situation when a transfer is fraudulent under (a) of this  
5 section, a transfer made by a debtor is fraudulent as to a creditor whose claim arose  
6 before the transfer was made if the transfer was made to an insider for an antecedent  
7 debt, the debtor was insolvent at that time, and the insider had reasonable cause to  
8 believe that the debtor was insolvent.

9 **Sec. 34.40.260. When transfer is made or obligation is incurred.** For the  
10 purposes of AS 34.40.220 - 34.40.390,

11 (1) a transfer is made

12 (A) with respect to an asset that is real property other than a  
13 fixture, but including the interest of a seller or purchaser under a contract for  
14 the sale of the asset, when the transfer is so far perfected that a good faith  
15 purchaser of the asset from the debtor against whom applicable law permits the  
16 transfer to be perfected cannot acquire an interest in the asset that is superior to  
17 the interest of the transferee; and

18 (B) with respect to an asset that is not real property or that is a  
19 fixture, when the transfer is so far perfected that a creditor on a simple contract  
20 cannot acquire a judicial lien other than under AS 34.40.220 - 34.40.390 that is  
21 superior to the interest of the transferee;

22 (2) if applicable law permits the transfer to be perfected as provided in  
23 (1) of this section and the transfer is not perfected as provided in (1) of this section  
24 before the commencement of an action for relief under AS 34.40.220 - 34.40.390, the  
25 transfer is considered made immediately before the commencement of the action;

26 (3) if applicable law does not permit the transfer to be perfected as  
27 provided in (1) of this section, the transfer is made when it becomes effective between  
28 the debtor and the transferee;

29 (4) a transfer is not made until the debtor has acquired rights in the  
30 asset transferred;

31 (5) an obligation is incurred when

1 (A) the obligation, if oral, becomes effective between the  
2 parties; or

3 (B) the writing executed by the obligor, if the obligation is  
4 evidenced by a writing, is delivered to or for the benefit of the obligee.

5 **Sec. 34.40.270. Remedies of creditors.** (a) In an action for relief against a  
6 transfer or an obligation under AS 34.40.220 - 34.40.390, a creditor, subject to the  
7 limitations in AS 34.40.280, may obtain

8 (1) an avoidance of the transfer or obligation to the extent necessary to  
9 satisfy the creditor's claim;

10 (2) an attachment or other provisional remedy against the asset  
11 transferred or other property of the transferee as allowed under AS 09.40 or other laws  
12 of this state;

13 (3) subject to applicable principles of equity and under applicable court  
14 rules,

15 (A) an injunction against further disposition by the debtor or a  
16 transferee, or both, of the asset transferred or of other property;

17 (B) appointment of a receiver to take charge of the asset  
18 transferred or of other property of the transferee; or

19 (C) other relief the circumstances may require.

20 (b) If a creditor has obtained a judgment on a claim against the debtor, the  
21 creditor, if ordered by the court, may levy execution on the asset transferred or its  
22 proceeds.

23 **Sec. 34.40.280. Defenses, liability, and protection of transferee.** (a) A  
24 transfer or an obligation is not voidable under AS 34.40.240(a)(1) against a person  
25 who took in good faith and for a reasonably equivalent value or against a subsequent  
26 transferee or obligee.

27 (b) Except as otherwise provided in this section, to the extent a transfer is  
28 voidable in an action by a creditor under AS 34.40.270(a)(1), the creditor may recover  
29 judgment for the value of the asset transferred, as adjusted under (c) of this section, or  
30 the amount necessary to satisfy the creditor's claim, whichever is less. The judgment  
31 may be entered against

1 (1) the first transferee of the asset or the person for whose benefit the  
2 transfer was made; or

3 (2) a subsequent transferee other than a good faith transferee or obligee  
4 who took for value or from a subsequent transferee or obligee.

5 (c) If the judgment under (b) of this section is based on the value of the asset  
6 transferred, the judgment must be for an amount equal to the value of the asset at the  
7 time of the transfer, subject to adjustment as the equities may require.

8 (d) Notwithstanding voidability of a transfer or an obligation under  
9 AS 34.40.220 - 34.40.390, a good faith transferee or obligee is entitled, to the extent of  
10 the value given the debtor for the transfer or obligation, to

11 (1) a lien on or a right to retain an interest in the asset transferred;

12 (2) enforcement of any obligation incurred; or

13 (3) a reduction in the amount of the liability on the judgment.

14 (e) A transfer is not voidable under AS 34.40.240(a)(2) or 34.40.250 if the  
15 transfer results from

16 (1) termination of a lease in default by the debtor when the  
17 termination is made under the lease and applicable law; or

18 (2) enforcement of a security interest under AS 45.29.

19 (f) A transfer is not voidable under AS 34.40.250(b)

20 (1) to the extent the insider gave new value to or for the benefit of the  
21 debtor after the transfer was made, unless the new value was secured by a valid lien;

22 (2) if made in the ordinary course of business or financial affairs of the  
23 debtor and the insider; or

24 (3) if made under a good faith effort to rehabilitate the debtor and the  
25 transfer secured present value given for that purpose as well as an antecedent debt of  
26 the debtor.

27 **Sec. 34.40.290. Extinguishment of cause of action.** A cause of action for a  
28 fraudulent transfer or obligation under AS 34.40.220 - 34.40.390 is extinguished  
29 unless an action is brought under

30 (1) AS 34.40.240(a)(1), within four years after the transfer was made  
31 or the obligation was incurred or, if later, within one year after the transfer or

1 obligation was or could reasonably have been discovered by the claimant;

2 (2) AS 34.40.240(a)(2) or 34.40.250(a), within four years after the  
3 transfer was made or the obligation was incurred; or

4 (3) AS 34.40.250(b), within one year after the transfer was made.

5 **Sec. 34.40.300. Supplementary provisions.** Unless displaced by the  
6 provisions of AS 34.40.220 - 34.40.390, principles of law and equity, including  
7 commercial law and the law relating to principal and agent, estoppel, laches, fraud,  
8 misrepresentation, duress, coercion, mistake, insolvency, or other validating or  
9 invalidating cause, supplement its provisions.

10 **Sec. 34.40.310. Uniformity of application and construction.** AS 34.40.220 -  
11 34.40.390 shall be applied and construed to carry out its general purpose to make  
12 uniform the law with respect to the subject of AS 34.40.220 - 34.40.390 among states  
13 enacting it.

14 **Sec. 34.40.390. Definitions.** In this chapter,

15 (1) "affiliate" means

16 (A) a person who directly or indirectly owns, controls, or holds  
17 with power to vote, 20 percent or more of the outstanding voting securities of  
18 the debtor, other than a person who holds the securities,

19 (i) as a fiduciary or agent without sole discretionary  
20 power to vote the securities; or

21 (ii) solely to secure a debt, if the person has not  
22 exercised the power to vote;

23 (B) a corporation if 20 percent or more of the corporation's  
24 outstanding voting securities are directly or indirectly owned, controlled, or  
25 held with power to vote, by the debtor or a person who directly or indirectly  
26 owns, controls, or holds with power to vote, 20 percent or more of the  
27 outstanding voting securities of the debtor, other than a person who holds the  
28 securities,

29 (i) as a fiduciary or agent without sole power to vote the  
30 securities; or

31 (ii) solely to secure a debt, if the person has not in fact

1 exercised the power to vote;

2 (C) a person whose business is operated by the debtor under a  
3 lease or other agreement, or a person substantially all of whose assets are  
4 controlled by the debtor; or

5 (D) a person who operates the debtor's business under a lease  
6 or other agreement or controls substantially all of the debtor's assets;

7 (2) "asset" means property of a debtor; in this paragraph, "property"  
8 does not include

9 (A) property to the extent it is encumbered by a valid lien;

10 (B) property to the extent it is generally exempt under  
11 nonbankruptcy law; or

12 (C) an interest in property held in tenancy by the entireties to  
13 the extent it is not subject to process by a creditor holding a claim against only  
14 one tenant;

15 (3) "claim" means a right to payment, whether or not the right is  
16 reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured,  
17 disputed, undisputed, legal, equitable, secured, or unsecured;

18 (4) "creditor" mean person who has a claim;

19 (5) "debt" means liability on a claim,

20 (6) "debtor" means a person who is liable on a claim;

21 (7) "insider" includes

22 (A) if the debtor is an individual,

23 (i) a relative of the debtor or of a general partner of the  
24 debtor;

25 (ii) a partnership in which the debtor is a general  
26 partner;

27 (iii) a general partner in a partnership described in (ii)  
28 of this subparagraph; or

29 (iv) a corporation of which the debtor is a director,  
30 officer, or person in control;

31 (B) if the debtor is a corporation,

- 1 (i) a director of the debtor;
- 2 (ii) an officer of the debtor;
- 3 (iii) a person in control of the debtor;
- 4 (iv) a partnership in which the debtor is a general
- 5 partner;
- 6 (v) a general partner in a partnership described in (iv) of
- 7 this subparagraph; or
- 8 (vi) a relative of a general partner, director, officer, or
- 9 person in control of the debtor;
- 10 (C) if the debtor is a partnership,
- 11 (i) a general partner in the debtor;
- 12 (ii) a relative of a general partner in, or a general partner
- 13 of, or a person in control of the debtor;
- 14 (iii) another partnership in which the debtor is a general
- 15 partner;
- 16 (iv) a general partner in a partnership described in (iii)
- 17 of this subparagraph; or
- 18 (v) a person in control of the debtor;
- 19 (D) an affiliate, or an insider of an affiliate as if the affiliate
- 20 were the debtor; or
- 21 (E) a managing agent of the debtor;
- 22 (8) "lien" means a charge against or an interest in property to secure
- 23 payment of a debt or performance of an obligation; in this paragraph, "charge against
- 24 or interest in" includes a security interest created by agreement, a judicial lien obtained
- 25 by legal or equitable process or proceedings, a common-law lien, or a statutory lien;
- 26 (9) "person" has the meaning given in AS 01.10.060, and also includes
- 27 a government or governmental subdivision or agency;
- 28 (10) "property" means anything that may be the subject of ownership;
- 29 (11) "relative" means
- 30 (A) an individual related by consanguinity within the third
- 31 degree as determined by the common law;

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(B) a spouse, or an individual related to a spouse within the third degree as determined by the common law; and

(C) an individual in an adoptive relationship within the third degree;

(12) "transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset; in this paragraph, "mode" includes payment of money, and release, lease, or creation of a lien or other encumbrance;

(13) "valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

**Sec. 34.40.395. Short title.** AS 34.40.220 - 34.40.390 may be cited as the Uniform Fraudulent Transfer Act.

\* **Sec. 6.** AS 34.40.010, 34.40.020, 34.40.030, and 34.40.100 are repealed.

\* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

**TRANSITION PROVISION.** This Act does not apply to a cause of action that arises under AS 34.40.010, 34.40.020, 34.40.030, or 34.40.100, repealed by sec. 6 of this Act, or AS 34.40.050, 34.40.060, 34.40.080, or 34.40.110(e), as amended by secs. 1 - 4 of this Act, before the effective date of this Act.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB295-LAW-C&FB-1-19-  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
Title "An Act adopting the Uniform Fraudulent RDU CIVIL  
Transfer Act and relating to fraudulent transfers of property." Component Commercial and Fair Business  
Sponsor Representative Anderson  
Requester House Labor and Commerce Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill creates the Uniform Fraudulent Transfer Act in statute and conforms it with applicable federal law. The current set of statutes, AS 34.40 relating to fraudulent transfers have not been modernized since they were created in 1949. This bill will assist creditors in collecting debts from debtors who have found new and more imaginative ways of hiding assets. The Act sets out numerous factors to be considered in determining whether there is fraudulent intent on the part of the debtor. The current law requires proof of the actual existence of the fraudulent intent which can only be done through circumstantial evidence. The bill also provides numerous remedies to creditors which are not available under the current law.

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

Prepared by: Kathryn Daughhete, Director  
Division: Administrative Services Division  
Approved by: Kathryn Daughhete for David Márquez, Attorney General  
Agency: Department of Law

Phone 465-3673  
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## Representative Tom Anderson

District 19 - Anchorage

## Sponsor Statement

### HB 295

As the credit system has evolved over the years there have been many changes made to address concerns that have arisen. One of those concerns was the right of creditors to protect themselves from debtors who attempt to defraud them through manipulation of their assets. For example, if a person knows they will be unable to pay their obligations and "sells" their assets to a family member or friend for a nominal sum in order to protect those assets how will a creditor prove a fraud has been committed?

In 1918 the National Conference of Commissioners on Uniform State Laws (ULC) proposed the Uniform Fraudulent Conveyance Act (UFCA) to answer that question. That Act was adopted in 25 jurisdictions. In 1984, the 1918 Act was revised and renamed the Uniform Fraudulent Transfer Act (UFTA). The new act's intent is the same as the 1918 Act but the language has been updated and changes have been made to bring it into compliance with the Bankruptcy Reform Act of 1978 which made several significant changes to federal fraudulent transfer law.

The UFTA creates a right of action for any creditor against any debtor and any other person who has received property from the debtor in a fraudulent transfer. A fraudulent transfer occurs when a debtor intends to hinder, delay, or defraud a creditor, or transfers property under certain conditions to another person without receiving reasonably equivalent value when the result is to make the debtor's assets unreasonably small in relation to the business or transaction in question.

The availability and viability of credit providers in this country requires national standards. Without uniformity, credit becomes less available, and the credit mechanism is less reliable. To avoid confusion and expense, the same rules must apply throughout the country. Public expectations are the same in every state and jurisdiction.

As well as the issue of uniformity there is the issue of modernity. The UFCA, which the UFTA replaces, was created in 1918. Changes in federal bankruptcy law, in creditor-debtor relations in general, even in the rules governing the conduct of lawyers, make it clear that a modernization is overdue. The Uniform Fraudulent Transfer Act answers that immediate need.

I strongly believe that Alaska should join with the 41 other states which have passed this Act.

I urge your support for this bill.

LS0843\A

## *Fraudulent Transfers*

**This page covers fraudulent transfer law, primarily the U.S. Uniform Fraudulent Transfers Act ("UFTA") and the cases interpreting the Act.**

The glitz and glamour of offshore trust planning has overshadowed the practical fact that most asset protection cases are won or lost by commercial litigators in post-judgment collection and enforcement hearings in the local state and federal courts. These debtor-creditor disputes rarely focus upon the structure created by the debtor to shield his assets; instead, the salient issues almost inevitably concern the method of transfer of the assets into the structure. If the transfer is defensible, the structure is largely irrelevant (so long as the debtor has no ownership or control of that structure). But the converse isn't true: If the structure is defensible, the transfer to the structure may still be set aside as a fraudulent transfer.

Questions of whether particular transfers are or are not fraudulent transfers represent some of the most important questions in asset protection planning. These issues are resolved by reference to the UFTA in the 41 states that have adopted it. Thus, the study of the UFTA, its history, and the cases that have interpreted the Act, will provide the broadest overview in most U.S. states as to what type of transactions will, or will not, stand up to creditor scrutiny.

Uniform acts are, of course, anything but uniform. The UFTA, like the other "uniform" acts, was drafted by the National Conference of Commissioners of Uniform State Laws a/k/a Uniform Law Commissioners - a completely voluntary group of law professors, former judges, and lawyers who simply have an interest in this area of practice. The Uniform Law Commissioners propose uniform laws to the states, but the individual state legislatures must independently ratify the Act. Of course, it is in this ratification that local politicking in favor of special interests causes slight changes to the language of the Act ultimately enacted for that state - slight changes to language that can be enormous in their practical effect.

Additionally, in each state the UFTA will sometimes be interpreted with reference to "other law" in that state, and such interpretation can dramatically change the impact of the Act. Thus, what would be a fraudulent transfer in Ohio might be a protected transaction in Florida. And what would be brilliant planning for a debtor in Texas might be a misdemeanor in California.

As we are limited in our resources and the time that we can spend on this project, we will not seek to keep up with the changes or variations from state to state except as where noted. This website is meant to give an overview of the UFTA and fraudulent transfer law in general, but not to answer specific questions in a specific state as to what is or isn't a fraudulent transfer. An attorney seeking resolutions to such questions in a particular state must consult the particular Act for that state and the cases cited thereunder.



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**Uniform Fraudulent Transfer Act State Adoptions**  
May 9, 2005

<b>State:</b>	<b>Statutory Citation:</b>
Alabama	Ala Code §8-9A-1 <i>et seq.</i>
Arizona	Ariz. Rev. Stat. Ann. §44-1001 <i>et seq.</i>
Arkansas	Ark. Stat. Ann. §4-59-201 <i>et seq.</i>
California	Cal. Civil Code §3439 <i>et seq.</i>
Colorado	Colo. Rev. Stat. §38-8-101 <i>et seq.</i>
Connecticut	Conn. Gen. Stat. §52-552 <i>et seq.</i>
Delaware	Del. Code Ann. tit. 6, §1301 <i>et seq.</i>
District of Columbia	D.C. Code Ann. §28-3101 <i>et seq.</i>
Florida	Fla. Stat. §726.101 <i>et seq.</i>
Georgia	Ga. Code §18-2-70 <i>et seq.</i>
Hawaii	Hawaii Rev. Stat. §651C-1 <i>et seq.</i>
Idaho	Idaho Code §55-910 <i>et seq.</i>
Illinois	Ill. Rev. Stat. ch. 740, §160/1 <i>et seq.</i>
Indiana	Ind. Code §38-18-2a1 <i>et seq.</i>
Iowa	Iowa Code §684.1 <i>et seq.</i>
Kansas	Kan. Stat. Ann. §33-201 <i>et seq.</i>
Maine	Me. Rev. Stat. Ann. tit. 14, §3571 <i>et seq.</i>
Massachusetts	Mass. Gen. Laws. Ann. ch. 109A, §1 <i>et seq.</i>
Michigan	Mich. Comp. Laws §566.31 <i>et seq.</i>
Minnesota	Minn. Stat. §513.41 <i>et seq.</i>
Missouri	Mo. Rev. Stat. §428.005 <i>et seq.</i>
Montana	Mont. Code Ann. §31-2-326 <i>et seq.</i>
Nebraska	Neb. Rev. Stat. §36-701 <i>et seq.</i>
Nevada	Nev. Rev. Stat. §112.140 <i>et seq.</i>
New Hampshire	N.H. Re Stat. Ann. §545-A:1 <i>et seq.</i>
New Jersey	N.J. Rev Stat. §25:2-20 <i>et seq.</i>
New Mexico	N.M. Stat. Ann. §56-10-14
North Carolina	N.C. Gen. Stat. §39-23.1 <i>et seq.</i>
North Dakota	N.D. Cent. Code §13-02.1-01 <i>et seq.</i>
Ohio	Ohio Rev. Code Ann. §1336.01 <i>et seq.</i>

Oklahoma	Okla. Stat. tit. 2-, §112 <i>et seq.</i>
Oregon	Or. Rev. Stat. §95.200 <i>et seq.</i>
Pennsylvania	Pa. Cons. Stat. tit. 12, §5101 <i>et seq.</i>
Rhode Island	R.I. Gen. Laws §6-16-1 <i>et seq.</i>
South Dakota	S.D. Codified Laws Ann. §54-8A-1 <i>et seq.</i>
Tennessee	Tenn. Code Ann. §66-3-301 <i>et seq.</i>
Texas	Tex. Business & Commerce Code Ann. §24.001 <i>et seq.</i>
Utah	Utah Code Ann. §25-6-1 <i>et seq.</i>
Vermont	Vt. Stat. Ann. tit. 9, §2285 <i>et seq.</i>
Washington	Wash. Rev. Code §19.40.011 <i>et seq.</i>
West Virginia	W. Va. Code §40-1A-1 <i>et seq.</i>
Wisconsin	Wis. Stat. §242.01



## Why States Should Adopt the...

### Uniform Fraudulent Transfer Act

Are we only as good as the extent to which we honor our obligations? Many would argue for this proposition. And when our obligations are financial, the argument is reinforced by law. It is to this proposition that the Uniform Fraudulent Transfer Act is addressed. If we have acquired debt we should not be able to manipulate our assets so that creditors will be deprived of their value when we default on our debt. We should not be able to plan an artificial insolvency by transferring assets to others against the interests of our creditors.

The Uniform Fraudulent Transfer Act works as a deterrent, preventing such transgressions against obligations incurred, and provides creditors with a remedy when debtors transfer or hide assets that would otherwise be available to satisfy legitimate debts.

While the issue of obligation is preeminent, the economic issue is no less important. Credit is essential to the economic life of this country. Consumer credit, commercial credit, secured and unsecured credit enter into our lives, everyday. Credit remains available so long as those who extend it are given certain assurances about their rights at default. The Uniform Fraudulent Transfer Act provides assurances to creditors that help make credit available to all of us.

This economic issue leads directly to the issue of uniformity. The availability and the health of the credit mechanism require national standards. The principles of the old Uniform Fraudulent Conveyance Act became applicable to every person in every state because it was incorporated into the Federal Bankruptcy Act. Much of what is in the newer Fraudulent Transfer Act duplicates the Bankruptcy Reform Act of 1978. Uniformity has become not only a question of law between states, but also between state and federal law.

Without uniformity, credit becomes less available, and the credit mechanism is less reliable. To avoid confusion and expense, the same rules must apply throughout the country. Public expectations are the same in every state and jurisdiction.

Associated with the issue of uniformity is the issue of modernity. The original Fraudulent Conveyance Act, which the Fraudulent Transfer Act replaces, was promulgated in 1918. Changes in federal bankruptcy law, in creditor-debtor relations in general, even in the rules governing the conduct of lawyers, make it clear that a modernization is overdue. The Uniform Fraudulent Transfers Act answers that immediate need.

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## SUMMARY

### Uniform Fraudulent Transfer Act

When we say a person "owns" something, we tend to think in all or nothing terms. Whatever a person owns is at that person's disposal – to sell, to give, to abandon, or to pledge as security for a debt. But relationships between people over property are never so simple or so unqualified. A creditor-debtor relationship, for example, may materially change an owner's power over the property owned. A mortgage, clearly, restricts what an owner may do with mortgaged real estate. The creditor has legally protected rights in the real estate securing the debt. Under Article 9 of the Uniform Commercial Code, secured creditors, also, obtain rights in collateral that are protected.

A less clear category, but important to the maintenance of credit, is that of the unsecured creditor-debtor relationship in which the debtor manipulates property to defeat the creditor's interest solely for that purpose and for no other. Perhaps the debtor foresees insolvency and tries to conceal property that a creditor might use to satisfy the debt. Perhaps the debtor never intends to satisfy the debt and manipulates property to make himself judgment-proof. Should the creditor be without recourse, and should the debtor's rights to deal with property be unrestricted in these kinds of cases?

The National Conference of Commissioners on Uniform State Laws (ULC) proposed the Uniform Fraudulent Conveyance Act (UFCA) in 1918 as an answer to that question. It was created to supersede the Statute of 13 Elizabeth which was enacted in some form by many states, and which introduced the concept of the fraudulent conveyance into the law of every American jurisdiction, with or without enactment. The UFCA was adopted in 26 states, and its provisions were incorporated into the Federal Bankruptcy Act.

In 1984, this 1918 Act was revised and renamed the Uniform Fraudulent Transfer Act (UFTA). The intent of the UFTA is the same as the UFCA – it classifies a category of transfers as fraudulent to creditors and provides creditors with a remedy for such transfers. The fundamental remedy is the recovery of the property for the creditor. Why a new Act at this time? The terminology of the UFCA had become considerably archaic, and needed to be modernized. The Bankruptcy Reform Act of 1978 changed the federal law on fraudulent transfers in significant ways, and made it imperative to reconsider state law. And creditor-debtor relationships have changed and become more complicated, so that the whole issue of fraudulent transfers needed rethinking. In 1984, the UFTA is ready to promote the modernization of this subject area of law.

UFTA creates a right of action for any creditor against any debtor and any other person who has received property from the debtor in a fraudulent transfer. A fraudulent transfer occurs when a debtor intends to hinder, delay, or defraud a creditor, or transfers property under certain conditions to another person without receiving reasonably equivalent value in return. But not all such transfers are fraudulent to every creditor.

UFTA distinguishes between present and future creditors, and specifies the kinds of transfers that are fraudulent to each of the two categories of creditors. Both present and future creditors may recover property when there is a transfer with intent to defraud. Both may recover when a transfer is made without receiving reasonably equivalent value when the result is to make the debtor's assets unreasonably small in relation to the business or transaction in which the debtor is engaged or about to be engaged. Also, present and future creditors can both recover when a debtor transfers property without receiving reasonably equivalent value when intending to incur debts beyond the ability to pay.

Present creditors, however, can recover property when it is transferred by a debtor to another person without receiving reasonably equivalent value if the debtor is insolvent or becomes insolvent as a result of the transfer. A transfer to an "insider" without receiving reasonably equivalent value when the debtor is insolvent, is also fraudulent to present creditors. The term "insider" is defined, and is someone with a special relationship to the debtor. Examples are relatives or business partners (when the debtor is a partner). To be liable, an "insider" must have reasonable cause to believe that the debtor is insolvent.

The fundamental relief for a creditor when there is a fraudulent transfer is recovery of the property from the person to whom it has been transferred. UFTA allows "avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim. . . ." Whatever is necessary to obtain the property is provided for, including attachment, injunctive relief, appointment of a receiver, or "any other relief the circumstances may require." If the creditor has reduced the claim to a judgment, the court may levy execution against the recovered assets. This means that the property can be sold to satisfy the amount of the judgment.

Much of the UFTA resembles the UFCA, its predecessor. What, then, are some of the differences? (A more detailed comparison is available from the ULC.) To begin with, the term "transfer" taken from the Federal Bankruptcy Act replaces the term "conveyance." UFCA uses the term "fair consideration" instead of "reasonably equivalent value." "Reasonably equivalent value" does not include the element of good faith as "fair consideration" does, and is more sharply defined than "fair consideration" is in the UFCA. UFTA overcomes the problem raised in the case of *Durrett v. Washington National Insurance Co.*, 621 F.2d 201 (5th Cir. 1980), a case that jeopardized mortgage foreclosure sales. Under UFTA, a properly conducted foreclosure sale is not a fraudulent transfer, notwithstanding the fact that it does not recover an amount somewhat near the actual market value of the property. The concept of the "insider" is new in the UFTA. UFTA provides for defenses of transferees and for a statute of limitations. Both issues are not addressed in the UFCA.

The Uniform Fraudulent Transfer Act continues the concept of a civil action for transfers fraudulent to creditors first created in the Statute of 13 Elizabeth, and comprehensively continued in the Uniform Fraudulent Conveyance Act. The new Act takes into account the considerable development in both law and practice in creditor-debtor relationships since 1918. The ULC hopes that it will be adopted uniformly in all states.

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# Uniform Law Commissioners

The National Conference of Commissioners on Uniform State Laws

## A Few Facts About The...

### UNIFORM FRAUDULENT TRANSFER ACT

**PURPOSE:**

Providing a creditor with the capacity to procure assets a debtor has transferred to another person to keep them from being used to satisfy the debt.

**ORIGIN:**

The Uniform Fraudulent Transfer Act, completed by the Uniform Law Commissioners in 1984, revises the Uniform Fraudulent Conveyance Act of 1918.

**ENDORSED BY:**

American Bar Association

**STATE ADOPTIONS:**

Alabama	Iowa	North Dakota
Arizona	Kansas	Ohio
Arkansas	Maine	Oklahoma
California	Massachusetts	Oregon
Colorado	Michigan	Pennsylvania
Connecticut	Minnesota	Rhode Island
Delaware	Missouri	South Dakota
District of Columbia	Montana	Tennessee
Florida	Nebraska	Texas
Georgia	Nevada	Utah
Hawaii	New Hampshire	Vermont
Idaho	New Jersey	Washington
Illinois	New Mexico	West Virginia
Indiana	North Carolina	Wisconsin

**2005 INTRODUCTIONS:**

Alaska  
Mississippi

For any further information regarding the Uniform Fraudulent Transfer Act, please contact

John McCabe or Katie Robinson at 312-915-0195.

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211 E. Ontario Street, Suite 1300  
Chicago, Illinois 60611

tel: (312) 915-0195 | fax: (312) 915-0187 | e-mail: [nccusl@nccusl.org](mailto:nccusl@nccusl.org)

**HB**

**331**



AMENDMENT

OFFERED IN THE HOUSE  
TO: HB 331

BY REPRESENTATIVE CRAWFORD

- 1 Page 1 delete lines 1 and 2 and insert: *17 to 20 who*
- 2 "An Act relating to access by persons ~~under 21~~ years of age that possess a valid active
- 3 duty military or armed forces identification card issued by the United States Department
- 4 of Defense or the United States Department of Homeland Security to a premises licensed
- 5 to sell alcoholic beverages as clubs."

*An Act relating to access by persons under  
21 years of age to patriotic organizations licensed  
to sell alcoholic beverages as clubs*

HOUSE BILL NO. 331

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE ELKINS

Introduced: 12/30/05

Referred: Prefiled

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to access by persons under 21 years of age to premises licensed to sell  
2 alcoholic beverages as clubs."

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

4 \* Section 1. AS 04.11.110(g) is amended to read:

5 (g) Notwithstanding AS 04.16.049, [THE BOARD MAY AUTHORIZE]  
6 access by persons under 21 years of age to

7 (1) a club's licensed premises is permitted [DURING HOURS] when  
8 [NO] alcoholic beverages are not present; and

9 (2) the premises of a patriotic organization licensed as a club  
10 under this section is permitted when alcoholic beverages are present if the person  
11 is 18, 19, or 20 years of age and possesses a valid active duty military or armed  
12 forces identification card issued by the United States Department of Defense or  
13 the United States Department of Homeland Security [SOLD, SERVED, OR  
14 CONSUMED].

AM #1  
DELETE

# ALASKA STATE LEGISLATURE

## INTERIM

50 Front Street  
Suite 203  
Ketchikan, Alaska 99901  
Phone (907) 247-4672  
Fax: (907) 225-8546

## SESSION

Suite 416  
State Capitol Building  
Juneau, Alaska 99801  
Phone: (907) 465-3424  
Fax: (907) 465-3793

## REPRESENTATIVE JIM ELKINS

### **Sponsor Statement for House Bill No. 331**

#### **"An Act relating to access by persons under 21 years of age to premises licensed to sell alcoholic beverages as clubs."**

House Bill 331 is a simple, single page bill that amends AS 04.11.110(g) by authorizing access by persons under 21 years of age, who possess a valid military active duty ID card, to a club's licensed premises without specific authorization of the ABC board in certain circumstances.

Under present state law, persons under the age of 21 cannot be on premises licensed to sell alcoholic beverages unless a parent or legal guardian accompanies them. At the same time, it is recognized that the Federal Government is the legal guardian of those active duty personnel under the age of 21.

All active duty personnel are eligible for membership in veteran's organizations, including those under the age of 21. Current law causes a dilemma to the under age person. Here they are, eligible to join an organization, but unable to go to the meetings because they are under age.

This legislation will in no way allow the consumption of alcoholic beverages by persons under the age of 21 in licensed clubs. It will allow active duty people under 21 to avail themselves of the club's amenities such as television, pool table, lounge, etc.

# ALASKA STATE LEGISLATURE

## INTERIM

50 Front Street  
Suite 203  
Ketchikan, Alaska 99901  
Phone (907) 247-4672  
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## SESSION

Suite 416  
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Juneau, Alaska 99801  
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Fax: (907) 465-3793

## REPRESENTATIVE JIM ELKINS

### Sectional Analysis of House Bill No. 331

**"An Act relating to access by persons under 21 years of age to premises licensed to sell alcoholic beverages as clubs."**

Section 1 of the bill amends AS 04.11.110(g) by authorizing access by persons under 21 years of age to a club's licensed premises without specific authorization of the Alcoholic Beverages Control Board in certain circumstances.



August 1, 2005

WHEREAS, The Joint Venture (Disabled American Veterans, The American Legion, and Veterans of Foreign Wars) is made up of patriotic veterans' organizations and membership in the organizations is based solely upon honorable federal military service to our country during dates established by the Congress of The United States, and without regard to age, sex, creed or color, and

WHEREAS, The Joint Venture, throughout their history, have welcomed home active duty military units returning from areas of conflicts. As well, Posts located in our coastal cities have done the same when US Naval and Coast Guard ships sail into port. And, it is generally acknowledged and recognized that a large percentage of active duty military personnel are under the age of 21 years and that their legal guardian is now considered to be the Federal Government; and

WHEREAS, Many Veterans' Posts in Alaska typically consist of one or two general usage rooms for their members, one containing a lounge where alcohol is available to members who are of legal drinking age and desire to purchase a drink; and


WHEREAS, Alaska Statute 04.16.049 allows a person under the age of 21 years, for the purpose of dining, to enter unaccompanied by his/her parent, legal guardian, or spouse 21 years or older in an establishment primarily designated by the Alcohol and Beverage Control Board (the Board) as a restaurant even though it may also contain a licensed bar. This Statute also prohibits his individual from entering or remaining in other liquor licensed establishments during hours of liquor sales; and

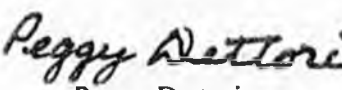
WHEREAS, Alaska Statute 04.11.110 provides that the Board must authorize access by persons under 21 years of age to a club's licensed premises during hours when no alcoholic beverages are sold, served or consumed. These statutes, 04.16.049 and 04.11.110, provide an unfair and seemingly unjust requirement that not only keep an active duty member out of his/her Post when alcohol beverages are being sold but require the Board's permission to enter when they are not being sold; and,


WHEREAS, The Joint Venture desires that its Posts be able to put on welcoming activities for active military units, selling and serving drinks to those at least 21 years of age, and offering free meals, soft drinks, shuffleboard, pool and darts to those under 21 years of age. And, we recognize that the requirement not to serve alcohol to those under 21 years of age would be levied on our Posts as it does in the current case of restaurants as stated in Alaska Statute 04.16.049; now, therefore, be it

RESOLVED, That The Joint Venture lobby legislators in Juneau to amend Alaska Statute 04.11.110, to allow military personnel who are under the age of 21 years and who possess a federal active duty military identification card to enter and remain in patriotic service organizations' Posts, as a guest or member, without accompaniment of a parent, legal guardian, or spouse 21 years of age or older, and be it further

RESOLVED, Alaska Statute 04.16.049, also be amended to reflect the same requested change.

  
Clayton Love  
Commander  
Disabled American Veterans

  
Peggy Dettori  
Commander  
The American Legion

  
Calvin Pope  
Commander  
Veterans of Foreign Wars

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HR-331-DMVA-COMM-01-12-06  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Military and Veterans' Affairs  
 Title Underage Military on Licensed Premises RDU Military and Veterans Affairs  
 Component Office of the Commissioner  
 Sponsor Representative Elkins  
 Requester \_\_\_\_\_ Component No. 414

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personnel Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

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

No fiscal impact.

Prepared by: John Cramer Phone (907) 465-4602  
 Division: Administrative Services Division Date/Time 1/12/06 3:15 PM  
 Approved by: Craig E. Campbell, Commissioner Date 1/12/2006  
 Agency: Department of Military & Veterans' Affairs

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB331-DPS-ABC-1-30-06  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title Access by persons under 21 years of age to RDU Alcoholic Beverage Control Board  
premises licensed to sell alcoholic beverages Component ABC Board  
 Sponsor Representative Elkins  
 Requester House Labor and Commerce Committee Component No. 2690

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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>					<b>1.5</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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation will have no fiscal impact on the Department of Public Safety.

Prepared by: Director Douglas B. Griffin Phone 907-269-0351  
 Division Alcoholic Beverage Control Board Date/Time 1/30/06 1:40 PM  
 Approved by: Commissioner William Tandeske Date 1/30/2006  
 Agency Department of Public Safety

**HB**

**335**



2/6/05

• BECKY BAY - AK ENERGY AUTHORITY

- CONCERNS:

- ① DUPLICATION OF EFFORTS
- ② POTENTIAL FOR CONFLICTS OF INTEREST

"OVERSIGHT" POWERS USURPS FROM AEA

③ DUE PROCESS PROBLEMS

CAERO IS TOO OVER-POWERED AND DILUTES AEA'S POWER, YET ENDORSES THE SPIRIT OF AEA

• PETER CRIMP

AEA - PROJ. MGR - ALTERNATIVE ENERGY

FUEL CELLS, MICRO-TURBINES, BIO-DIESEL REYNOLDS UNIVERSITY

• MEERA KOHLER

AK VILLAGE ELECTRIC COOP.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 335  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Energy Research & Development RDU AIDEA (125)  
 Component AIDEA  
 Sponsor Berkowitz et al  
 Requester House Labor & Commerce Component No. 1234

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	208.0	208.0	208.0	208.0	208.0	208.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>208.0</b>	<b>208.0</b>	<b>208.0</b>	<b>208.0</b>	<b>208.0</b>	<b>208.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1007 Interagency Receipts	208.0	208.0	208.0	208.0	208.0	208.0
<b>TOTAL</b>	<b>208.0</b>	<b>208.0</b>	<b>208.0</b>	<b>208.0</b>	<b>208.0</b>	<b>208.0</b>

Estimate of any current year (FY2006) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

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

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

This legislation creates the Alaska energy research and development program in the Alaska Energy Authority (AEA). HB 335 also creates a committee to assist in the development of the program.

AIDEA provides staff support for AEA programs; the cost for two positions (Project Manager (R22) and Project Manager (R20)) would be needed to provide support for this new program and the new committee. This fiscal note reflects the personal services costs and the creation of two new positions. Funding for the program would be provided to AEA and monies to cover personal services costs would be transferred to AIDEA from AEA. AEA's fiscal note reflects the detailed cost of the legislation.

Prepared by: Sara Fisher-Goad, Financial Analyst Phone 907.269.4623  
 Division Alaska Industrial Development & Export Authority Date/Time 2/3/06 11:26 AM  
 Approved by: Ron Miller, Executive Director Date 2/3/2006  
 Agency Alaska Industrial Development & Export Authority

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB335  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
Title Energy Research & Development RDU Alaska Energy Authority (453)  
Component AEA Rural Energy Operations  
Sponsor Berkowitz et al  
Requester House Labor & Commerce Component No. 2600

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel	28.0	28.0	28.0	28.0	28.0	28.0
Contractual	208.0	208.0	208.0	208.0	208.0	208.0
Supplies	12.0	12.0	12.0	12.0	12.0	12.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	.	.	.	.	.	.
<b>TOTAL OPERATING</b>	<b>248.0</b>	<b>248.0</b>	<b>248.0</b>	<b>248.0</b>	<b>248.0</b>	<b>248.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	248.0	248.0	248.0	248.0	248.0	248.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>248.0</b>	<b>248.0</b>	<b>248.0</b>	<b>248.0</b>	<b>248.0</b>	<b>248.0</b>

Estimate of any current year (FY2006) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

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

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

This legislation creates the Alaska energy research and development program in the Alaska Energy Authority (AEA). HB 335 also creates a committee to assist in the development of the program.

AEA requires two new positions to administer this new program: A project manager (R20) is needed to produce the periodical statewide report, conduct requested community meetings, and provide staff support to the Committee on Alaska Energy Research and Development. A project manager (R22) is required to administer the proposed Energy loan fund and to develop the energy portfolio standard and energy production incentive credit program. Personal Services of \$208.0 are reflected as contractual expenditures paid to AIDEA which would hire the employees.

Prepared by: Sara Fisher-Goad, Financial Analyst Phone 907.269.4623  
Division Alaska Energy Authority Date/Time 2/3/06 11:25 AM  
Approved by: Ron Miller, Executive Director Date 2/3/2006  
Agency Alaska Energy Authority

Travel costs of \$28,000 assumes 10 public community meetings to discuss the report published under proposed section AS 44.83.205 (10 meetings x \$1,000 travel and per diem) and 2 meetings of the Committee on Alaska Energy and Research Development (2 x 9 members x \$1000 travel and per diem.)  
Supplies are estimated at \$12,000.

\*Miscellaneous - Indeterminate amount needed to capitalize the proposed Energy Loan Fund.