

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2006 86/2

11545 HOUSE LABOR & COMMERCE

Sec. 06.60.330 Gives the Division authority to reinstate a revoked license.

Sec. 06.60.340 Specifies a requirement and purpose for examination of licensees (at a frequency of at least every 3 years). Also sets out requirement for the Division to be reimbursed for expenses of conducting examinations.

Sec. 06.60.350 Prohibits licensee from knowingly giving false, misleading, or deceptive statements to the Division in the course of an investigation or examination.

Sec. 06.60.360 Provides authority to Division to make rulings, demands, or findings addressing proper conduct of a licensee.

Article 4. Business Duties and Restrictions.

Sec. 06.60.400 Prohibits licensee from making false, misleading, or deceptive statements.

Sec. 06.60.410 Subject a person, if pertinent, to various federal regulations.

Sec. 06.60.420 Enumerates a list of prohibited activities of a licensee for the purpose of consumer protection.

Sec. 06.60.430 Set restrictions for the refinancing of a mortgage loan done within 12 months of its origination for the purpose of additional consumer protection.

Sec. 06.60.440 Requires segregations of escrow accounts and restricts when a licensee can require a borrower to supply escrow funds.

Article 5. Enforcement.

Sec. 06.60.500 This section defines when the Division can issue a "stop" order. If the Division does not act on a request for a hearing, the order is considered rescinded.

Sec. 06.60.510 Provides the process for making the "stop" order to become final.

Sec. 06.60.520 Provides authority and process for the Division to censure, suspend, or bar a licensee, and limits the period covered for such actions period of up to 12 months.

Sec. 06.60.530 Provides specific penalties for licensees conducting business in violation of the Act.

Article 6. Collection of Program Administration Fee.

Sec. 06.60.600 Provides authority for the Division for the contract with a licensee or another person to act as an agent in conjunction collection of a program administration fee, and removes liability of the Division in conjunction for wrong doing of a contract agent.

Sec. 06.60.610 Provides for an agent of Sec. 06.60.600 to retain 25% of collected fees, to transmit collected fees on an annual basis by January 15, and for the Division to assess a penalty for late transmittal of fees to the Division.

Article 7. Miscellaneous Provisions.

Sec. 06.60.700 Triggers the Administrative Procedures Act for actions of the Division taken to deny, revoke, or suspend a license, and for hearings and orders.

Sec. 06.60.710 Gives the Division authority to adopt regulations to implement this chapter.

Sec. 06.60.720 When sections of this Act are preempted by federal law, then federal law applies. When this Act conflicts with another state law, this Act applies.

Article 8. General provisions.

Sec. 06.60.990 Provides definitions for various terms used in this Act.

Sec. 06.60.995 Give short title for this Act as the Mortgage Lending Act of 2006.

Section 2

Amends AS 44.62.330(a) to add this Act to that section of law.

Section 3

Provides a transition period for the implementation of this Act, giving current business activities subject to this Act, until March 1, 2008 to get licensed.

Section 4

Provided the Division the ability to adopt regulations necessary to implement the changes made by this Act.

Section 5

This makes *Sec. 4 effective immediately.

Section 6

Provides an effective date for the Act of July 1, 2007.

INDEPENDENT LENDERS OF ALASKA

5313 ARCTIC BLVD., SUITE 206

ANCHORAGE, AK 99518

Phone: (907) 279-8551 Fax: (907) 274-7630

February 27, 2006

Representative Tom Anderson, Chair
House Labor and Commerce Committee
Alaska State Legislature
Juneau, Alaska

Reference: CSHB 424--Proposed Legislation to License Mortgage Lenders and Mortgage Brokers for Residential Mortgages.

Dear Representative Anderson:

Our organization is comprised of 15 small private lenders within the State who specialize in making mortgage loans to borrowers and on properties that do not qualify for loans through banks and credit unions. I am submitting this letter in support of CSHB 424.

Like many small Alaskan businesses, our members would prefer to maintain our current status as businesses not subject to government regulation. Unfortunately, we are advised by the Division of Banking & Securities that they receive approximately 20 complaints per week concerning mortgage financing. We are also aware that Alaska is one of the few states that does not regulate mortgage lenders, that are not banks or credit unions, and that Congress is now considering legislation that would require each state to do so. We have therefore accepted the fact that reasonable regulation to protect Alaska consumers is needed and necessary.

Since June of last year, we have worked with the Division of Banking & Securities to draft legislation that will provide meaningful protection for consumers without placing an undue regulatory burden on small businesses. Because our members lend their own money, they don't need the same degree of regulation that is required for banks and credit unions which lend depositor's money. As with any legislation, this proposed bill doesn't provide everything we would like, but we do consider it to be a reasonable proposal. We believe that this bill merits the support of the Alaska Legislature for the following reasons:

- 1 It provides strong consumer protection against abuses in Mortgage

Lending.

- 2 It gives the Alaska Division of Banking & Securities strong enforcement ability.
- 3 The enforcement of the Act will be self funded from fees paid by licensees and a small \$10 per loan fee for each residential transaction paid by borrowers. *(This is similar to the funding methodology used by several other states)*
- 4 In addition to being applicable to small independent lenders, such as our members, it will also be applicable to the out-of- state "internet lenders" that we have been advised are a major source of complaints to the Division of Banking & Securities.
- 5 Although the Act will restrict the business freedom that small independent lenders have enjoyed, the bill is not so onerous as to place an undue regulatory burden on Lenders who treat borrowers in a fair and ethical manner.
- 6 While we understand this Bill represents only a portion of the Divisions full regulatory package which will also include mortgage originators, we believe it is a good first step that will bring the issue forward for legislative consideration in a timely manner that can hope for passage this year.

If I can answer any questions that you, or the members of your Committee, have concerning this legislation, please contact me.

Sincerely,

Independent Lenders of Alaska



Kenneth Jay Gain,
Secretary/Treasurer



ALASKA ASSOCIATION OF REALTORS, INC.
4205 Minnesota Drive Anchorage, Alaska 99503
Telephone (907) 563-7133 Fax (907) 561-1779
www.alaskarealtors.com

February 28, 2006

The Honorable Tom Anderson
Chair, House Labor & Commerce Committee
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 424, relating to mortgage lenders and persons who engage in activities relating to mortgage lending

Dear Representative Anderson,

The Alaska Association of REALTORS® with over 1,600 members statewide supports House Bill 424, which relates to the licensing of the mortgage lending industry in Alaska.

We favor this bill because up until the last decade or so, prospective homebuyers could be relatively certain that they knew what they were getting into with their mortgage loan. This is not the case anymore with predatory lending practices in the mortgage industry.

This bill would assist in protecting the homebuyer from incredible debt and loss of property equity as a result of predatory lending practices.

The Association encourages the passage of House Bill 424.

Sincerely,

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

Don McKenzie
AAR President



**ALASKA MORTGAGE BANKERS ASSOCIATION
P.O. BOX 9-2691
ANCHORAGE, ALASKA 99509-2691**

March 1, 2006

Representative Tom Anderson
State Capitol, Room 408
Juneau, Alaska 99801-1182
ATTN: Josh Applebee
FAXED: 907-465-2418

RE: SB 272/HB 424

Dear Representative Anderson,

As President of Alaska Mortgage Bankers Association, I can't begin to tell you just how long this organization has been working on a Licensing Bill for the State of Alaska. In the past twelve months momentum has increased and our Association along with the Alaska Association of Mortgage Brokers and the Division of Banking have worked very closely in making a licensing bill a reality. I am sad to say that problems exist with SB 272/HB 424.

Without going into a line-by-line description of what the Alaska Mortgage Bankers Association finds problematic, I will briefly outline a few items that cause great concern. Two problem sections are as follows:

Section 06.60.020 Exemptions: Simply there are far too many of them. We have always objected to the exemption of a mortgage lender who makes six or fewer loans in a six month time frame. We believe any company, individual, or agency who originates mortgage loans with the exception of National Banks, State Banks, and Credit Unions should be licensed.

Section 06.60.420 Prohibited activities Items (10) (11): While I understand the intent of items (10) (11) they were added much later in the process, within the last three or four weeks. It is my opinion the membership of AMBA has not had adequate time to review this language nor do I believe the State or Division of Banking has thought through all of the potential ramifications these two items can create for Mortgage Lenders, Bankers, and Brokers. It is my belief this language will create confusion. While the intent is one thing, the courts, if any action is ever brought against a Bank, AMBA member, Mortgage Brokers, any entity engaged in the activity of Mortgage Loan Origination, this language could be interpreted differently by the courts.

While AMBA does not want to appear negative about the bill I can not in good consciousness offer AMBA's 100% support with these and other items still needing attention. AMBA and AMBA's legislative committee was worked endless hours on a Mortgage Licensing Bill. We will continue to work toward a licensing bill that provides the consumer protection that all of AMBA's members, in concert with the Alaska Association of Mortgage Brokers and the Division of Banking, desire. While we are closer to achieving this goal, SB 272/HB 424 does not quite achieve this goal.

It is my sincere commitment to work in accomplishing Mortgage Lending Licensing this session. AMBA appreciates your and your staff's efforts and look forward to continuing to work closely in overcoming this challenge.

Sincerely



Kevin M. Breeland
President
Alaska Mortgage Bankers Association
907-222-8823 direct line
907-743-9623 fax
www.akmba.org
breelandk@residentialmtg.com

Cc: Senator Thomas Wagoner
State Capitol
Juneau, Alaska

Senator Con Bonde
State Capitol
Juneau, Alaska

Alaska Association of Mortgage Brokers
ATTN: Doug Issacson, President

John Carman
Legislative Committee Chair
Alaska Mortgage Bankers Association

Current AMBA Membership

Roger Prince
Division of Banking
State of Alaska

Sectional Analysis
HB424/SB 272 Mortgage Lending

(Ver. 24-LS 644) includes changes made by T. Bannister as of 2/23/2006)

Department of Commerce, Community, and Economic Development
Division of Banking & Securities
1 March 2006

This legislation brings the business of mortgage lending and brokering under the supervision of the Division of Banking & Securities (Division). In this sectional, the legislation is referred to as "Act."

Sec 1

Article 1. Licensing.

Sec. 06.60.010 Subjects mortgage lenders and brokers to licensing.

Sec. 06.60.020 List various exemptions from licensing under this Act.

Sec. 06.60.030 Provides the requirements for licensure under the Act.

Sec. 06.60.040 Requires the Division to investigate applications for a license under the Act.

Sec. 06.60.050 Requires the initial license fee to be submitted with the application.

Sec. 06.60.060 Sets out bonding requirements and amounts and give the Division authority to increase the amount set in this section.

Sec. 06.60.070 Requires the Division to issue a license, or reason for refusal to license, within 90 days of the filing of the application.

Sec. 06.60.080 Details some things the Division must consider in its determination of whether or not to issue a license.

Sec. 06.60.090 Contains a list of additional grounds for disapproving a license.

Sec. 06.60.100 Give the Division the authority to define the form of the application and requires the licensee to supply an address for where business will be conducted, and includes the Internet, if appropriate.

Sec. 06.60.110 Gives duration of a license and prohibits the transfer of a license.

Article 2. Licensee Obligations.

Sec. 06.60.200 Requires submission of an annual report, gives the Division the authority to specify the contents and provides for a \$25/day for late filing.

Sec. 06.60.210 Sets annual license fee at \$250.

Sec. 06.60.220 Prohibits the licensee from conducting other business from within the licensed office unless disclosed in the initial application.

Sec. 06.60.230 Gives the licensee the authority to relocate a licensed office upon giving the Division a 10 day prior notice.

Sec. 06.60.240 Requires a licensee to inform the Division within 10 days if there is a significant change in the business operations.

Sec. 06.60.250 Provides guidance/requirements for record keeping.

Sec. 06.60.260 Requires a licensee who's office is located outside of Alaska to make records available at a location within Alaska, or to pay cost incurred to examine at its out of state office.

Sec. 06.60.270 Defines disqualified person and banishes them from most aspects of a licensed office/business.

Sec. 06.60.280 Sets out minimum net worth requirements for licensees.

Sec. 06.60.290 Requires the license to be posted.

Article 3. Discipline of Licensee.

Sec. 06.60.300 Requires the Division to revoke a license in specific situations.

Sec. 06.60.310 Provides the ability for a licensee to surrender a license and the process, and requires the surrender for lack of 12 consecutive months of activity.

Sec. 06.60.320 Provides the effect of revocation, suspension, or surrender of a license. Licensee must divest itself of all outstanding loans.

Sec. 06.60.330 Gives the Division authority to reinstate a revoked license.

Sec. 06.60.340 Specifies a requirement and purpose for examination of licensees. Frequency of at least every 3 years! Also sets out requirement for the Division to be reimbursed for expenses of conducting examinations.

Sec. 06.60.350 Prohibits licensee from knowingly giving false, misleading, or deceptive statements to the Division in the course of an investigation or examination.

Sec. 06.60.360 Provides authority to Division to make rulings, demands, or findings addressing proper conduct of a licensee.

Article 4. Business Duties and Restrictions.

Sec. 06.60.400 Prohibits licensee from making false, misleading, or deceptive statements.

Sec. 06.60.410 Subject a person, if pertinent, to various federal regulations.

Sec. 06.60.420 Give a laundry list of prohibited activities of a licensee.

Sec. 06.60.430 Set restrictions for the refinancing of a mortgage loan done within 12 months of its origination.

Sec. 06.60.440 Requires segregations of escrow accounts and restricts when a licensee can require a borrower to supply escrow funds.

Article 5. Enforcement.

Sec. 06.60.500 This section defines when the Division can issue a "stop" order. I believe "stop" must be used instead of the Divisions usual use of "cease and desist" orders. If the Division does not act on a request for a hearing, the order is considered rescinded.

Sec. 06.60.510 Provides the process for making the "stop" order to become final.

Sec. 06.60.520 Provides authority and process for the Division to censure, suspend, or bar a licensee, and limits the period covered for such actions period of up to 12 months.

Sec. 06.60.530 Provides specific penalties for licensees conducting business in violation of the Act.

Article 6. Collection of Program Administration Fee.

Sec. 06.60.600 Provides authority for the Division to contract with a licensee or another person to act as an agent in conjunction collection of a program administration fee, and removes liability of the Division in conjunction for wrong doing of a contract agent.

Sec. 06.60.610 Provides for an agent of Sec. 06.60.600 to retain 25% of collected fees, to transmit collected fees on an annual basis by January 15, and for the Division to assess a penalty for late transmittal of fees to the Division.

Article 7. Miscellaneous Provisions.

Sec. 06.60.700 Triggers the Administrative Procedures Act for actions of the Division taken to deny, revoke, or suspend a license, and for hearings and orders.

Sec. 06.60.710 Gives the Division authority to adopt regulations to implement this chapter.

Sec. 06.60.720 When sections of this Act are preempted by federal law, then federal law applies. When this Act conflicts with another state law, this Act applies.

Article 8. General provisions.

Sec. 06.60.990 Provides definitions for various terms used in this Act.

Sec. 06.60.995 Give short title for this Act as Mortgage Lending Act of 2006.

***Sec. 2**

Amends AS 44.62.330(a) to add this Act to that section of law.

***Sec. 3**

Provides a transition period for the implementation of this Act, giving current business activities subject to this Act, until March 1, 2008 to get licensed.

***Sec. 4**

Provided the Division the ability to adopt regulations necessary to implement the changes made by this Act.

***Sec. 5**

This makes *Sec. 4 effective immediately.

***Sec. 6**

Provides an effective date for the Act of July 1, 2007.

24-LS1644U
Bannister
3/1/06

CS FOR SENATE BILL NO. 272(L&C)

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

BY THE SENATE LABOR AND COMMERCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATOR WAGONER

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to mortgage lenders, mortgage brokers, state agents who collect
2 program administration fees, and other persons who engage in activities relating to
3 mortgage lending; and providing for an effective date."

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

5 * **Section 1.** AS 06 is amended by adding a new chapter to read:

6 **Chapter 60. Mortgage Lending.**

7 **Article 1. Licensing.**

8 **Sec. 06.60.010. License required.** (a) Except as provided under AS 06.60.020,
9 a person may not solicit or engage in business as a mortgage lender or hold the person
10 out to the public as a mortgage lender unless the person is licensed under this chapter.

11 (b) Except as provided under AS 06.60.020, a person may not solicit or
12 engage in business as a mortgage broker or hold the person out to the public as a
13 mortgage broker unless the person is licensed under this chapter.

14 (c) The department may issue a dual license under this chapter that allows a

1 person to engage in business as a mortgage lender and a mortgage broker and to hold
2 the person out to the public as a mortgage lender and a mortgage broker.

3 (d) A license may cover more than one location of the licensee.

4 **Sec. 06.60.020. Exemptions.** Except for AS 06.60.400 - 06.60.440, this
5 chapter does not apply to

6 (1) a mortgage lender who makes six or fewer mortgage loans within a
7 period of six consecutive months;

8 (2) a mortgage lender or mortgage broker who is authorized to engage
9 in business as a bank, savings institution, or credit union under the laws of the United
10 States, a state or territory of the United States, or the District of Columbia;

11 (3) a subsidiary and an affiliate of a mortgage lender or mortgage
12 broker who is covered by (2) of this section and who is subject to the general
13 supervision, regulation, audit, or examination by a regulatory body or agency of the
14 United States, a state or territory of the United States, or the District of Columbia;

15 (4) a nonprofit corporation that makes mortgage loans to promote
16 home ownership or home improvements for qualified individuals; in this paragraph,

17 (A) "nonprofit corporation" means a corporation that qualifies
18 under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code) for an exemption
19 from federal income taxation;

20 (B) "qualified individual" means an individual

21 (i) whose income is 60 percent or less of the median
22 income in the United States;

23 (ii) who is over 60 years of age; or

24 (iii) who has a disability; in this sub-subparagraph,
25 "disability" has the meaning given at 42 U.S.C. 12102(2)(A);

26 (5) an agency of the federal government, a state government, a
27 municipality, or a quasi-governmental agency making or brokering mortgage loans
28 under the specific authority of the laws of a state or the United States;

29 (6) a person who acts as a fiduciary for an employee pension benefit
30 plan qualified under 26 U.S.C. (Internal Revenue Code) and who makes mortgage
31 loans solely to participants of the plan from assets of the plan;

1 (7) a person who is licensed in this state as an attorney, real estate
2 broker, or real estate agent when rendering services as an attorney, real estate broker,
3 or real estate agent, but who is not actively and principally engaged in negotiating,
4 placing, or finding mortgage loans; however, a real estate broker or real estate agent
5 who receives a fee, commission, kickback, rebate, or other payment for directly or
6 indirectly negotiating, placing, or finding a mortgage loan for another person is not
7 covered by this paragraph;

8 (8) a person who acts in a fiduciary capacity conferred by the authority
9 of a court;

10 (9) a person who is licensed by the United States Small Business
11 Administration as a small business investment company under 15 U.S.C. 661 - 696
12 (Small Business Investment Act of 1958);

13 (10) an employee who is working under the direction and supervision
14 of a licensee or of an entity identified under (1) - (9) of this section; and

15 (11) an independent contractor who is working as an independent
16 contractor for an entity identified under (1) - (9) of this section if

17 (A) the independent contractor has a written agreement with
18 the entity under which the entity accepts responsibility for ensuring that the
19 independent contractor complies with the requirements imposed in this
20 chapter, including maintaining records under AS 06.60.250 - 06.60.260; and

21 (B) the department approves the agreement between the
22 independent contractor and the licensee or entity.

23 **Sec. 06.60.030. Application for license.** An application for a license must

24 (1) be in writing;

25 (2) be made under oath or affirmation;

26 (3) be in the form prescribed by the department;

27 (4) contain the name and both the residence and business addresses of
28 the applicant as follows:

29 (A) if the applicant is a partnership or an association not
30 covered by (B) or (C) of this paragraph, the name and both the residence and
31 business addresses of each member of the partnership or association;

1 (B) if the applicant is a corporation, the name and both the
2 residence and business addresses of each officer and director of the corporation
3 and any shareholder holding 10 percent or more of the total shares;

4 (C) if the applicant is a limited liability company, the name and
5 both the residence and business addresses of each member of the company and
6 any manager of the company;

7 (5) contain the mailing address of the applicant, and the street address
8 and city, if any, for each business location that will be licensed; and

9 (6) other information that the department may require.

10 **Sec. 06.60.040. Investigation.** The department shall investigate an applicant
11 for a license to determine if the applicant satisfies the requirements of this chapter for
12 the license. An applicant for a license shall pay the investigation expenses incurred by
13 the department. When the applicant submits the application to the department, the
14 applicant shall pay to the department a nonrefundable application fee of \$500 in partial
15 payment of the investigation expenses incurred by the department. An applicant for a
16 dual license is not required to pay more than one annual license fee.

17 **Sec. 06.60.050. Initial annual fee.** An applicant for a license shall pay the
18 annual license fee required by AS 06.60.210 to the department when the applicant
19 submits an application under AS 06.60.030, and the applicant's next license fee is due
20 the last day of the first January that occurs after the applicant receives a license.

21 **Sec. 06.60.060. Bonding.** (a) An applicant shall file with the application
22 submitted to the department under AS 06.60.030 a bond with one or more sureties in
23 the amount of \$25,000 in which the applicant is the obligor. The bond must be
24 satisfactory to the department.

25 (b) The bond required by (a) of this section shall be for the use of the
26 department for a cause of action against the obligor under this chapter. The bond must
27 state that the obligor will faithfully conform to and abide by the provisions of this
28 chapter and of all regulations adopted under this chapter and will pay to the
29 department all money that may become due or owing to the department from the
30 applicant under this chapter.

31 (c) An applicant for a license that covers more than one location is not

1 required to file more than one bond.

2 (d) The bond required under (a) of this section may be continuous until the
3 Department revokes or otherwise terminates the license.

4 (e) If the department determines at any time that the bond required under (a)
5 of this section is unsatisfactory for any reason, the department may require the
6 licensee to file with the department, within 10 days after the receipt of a written
7 demand from the department, an additional bond that complies with the provisions of
8 this section.

9 **Sec. 06.60.070. Issuance of license.** (a) Within 90 days after the date an
10 application is filed with the department under AS 06.60.030, the department shall
11 either approve the application and issue a license to the applicant or disapprove the
12 application.

13 (b) If the department disapproves the application, the department shall
14 promptly notify the applicant. The notification must indicate the reason for the
15 disapproval and provide the applicant with an opportunity for a hearing on the
16 department's disapproval.

17 **Sec. 06.60.080. Determinations for licensing.** Before approving an
18 application filed under AS 06.60.030, the department shall determine that

19 (1) the applicant has complied with the requirements of this chapter for
20 obtaining a license, including having paid all required fees.

21 (2) the financial responsibility, experience, character, and general
22 fitness of the applicant, and of the applicant's members and officers, and the
23 organization and operation of the applicant indicate that the applicant will operate in
24 compliance with AS 06.60.400 - 06.60.440; and

25 (3) the department has not found grounds for disapproval of the
26 application under AS 06.60.090.

27 **Sec. 06.60.090. Additional grounds for disapproval of application.** The
28 grounds for disapproval of an application for a license include a finding by the
29 department that a person named in the application

30 (1) has liabilities that exceed the person's assets, cannot meet the
31 person's obligations as they mature, or is in a financial condition that indicates that the

1 person cannot continue in business and safely handle the mortgage loans of the
2 person's customers;

3 (2) has engaged in dishonest, fraudulent, or illegal practices or conduct
4 in a business or profession;

5 (3) has been convicted of a crime, if an essential element of the crime
6 was fraud;

7 (4) is permanently or temporarily enjoined by a court of competent
8 jurisdiction from engaging in or continuing conduct or a practice involving an aspect
9 of the business of providing financial services to the public; or

10 (5) has been prohibited by a federal or state regulatory agency from
11 engaging, participating, or controlling a finance-related activity that provides financial
12 services to the public.

13 **Sec. 06.60.100. Form and contents of license.** A license must be in a form
14 established by the department, state the address for each office of the business where
15 the business of the licensee is to be conducted, and contain the full name of the
16 licensee. If a licensee conducts business on the Internet, the license must also state the
17 registered domain address or addresses through which the licensee conducts the
18 licensee's business and the physical location of the main business office.

19 **Sec. 06.60.110. Duration and transfer of license.** (a) A license issued under
20 this chapter is a continuing license and remains in full force and effect until the license
21 is revoked or suspended under AS 06.60.300 or surrendered by the licensee under
22 AS 06.60.310.

23 (b) A licensee may not transfer or assign the licensee's business unless the
24 licensee transfers or assigns the business to another licensee with the same type of
25 license as the transferring or assigning licensee.

26 **Article 2. Licensee Obligations.**

27 **Sec. 06.60.200. Annual report.** (a) On or before March 15, or on another date
28 established by the department by regulation, of each year a licensee shall file a report
29 with the department giving relevant information that the department requires
30 concerning the business and operations of each location in the state where business
31 was conducted by the licensee in the state during the preceding calendar year. The

1 licensee shall make the report under oath or on affirmation. The report must be in the
2 form established by the department.

3 (b) A licensee who fails to file a report as required by (a) of this section is
4 subject to a civil penalty of \$25 for each day's failure to file the report.

5 **Sec. 06.60.210. Annual license fee.** (a) A licensee shall pay the department a
6 license fee of \$250 each year on or before the last day of January.

7 (b) The license fee imposed by (a) of this section is in addition to the fee
8 imposed under AS 43.70 (Alaska Business License Act).

9 **Sec. 06.60.220. Location of business of making loans.** A licensee may not
10 maintain the licensee's principal place of business or a branch office within an office,
11 suite, room, or place of business in which any other business is solicited or engaged in,
12 or in association or conjunction with another business, unless the name and ownership
13 of the other business is disclosed in the licensee's application for a license.

14 **Sec. 06.60.230. Change of place of business.** If a licensee wishes to change
15 the licensee's place of business to another location, the licensee shall submit a written
16 notice to the department at least 10 days before relocating the business. If the licensee
17 is otherwise in compliance with this chapter, the department shall issue a new license
18 to the licensee to reflect the new location.

19 **Sec. 06.60.240. Change in business operations.** If there is a significant
20 change in the business operations of the licensee, the licensee shall, within 10 days,
21 provide notice of the change to the department.

22 **Sec. 06.60.250. Records of licensee.** (a) A licensee shall keep and use in the
23 licensee's business the accounting records that are in accord with sound and accepted
24 accounting practices.

25 (b) A licensee shall maintain a record, by electronic record or photocopying,
26 for the account of each borrower and for each loan made to the borrower. This record
27 must contain all documents, notes, electronic correspondence, and forms that are
28 produced or prepared for the mortgage loan by the licensee, and the licensee shall
29 retain each document, note, electronic correspondence, and form for three years.

30 (c) If a licensee conducts business as a mortgage loan servicing agent for other
31 mortgage lenders or investors, the licensee shall, in addition to complying with (a) and

1 (b) of this section, maintain a record for each mortgage loan. The record for each
2 mortgage loan must include the amount of the mortgage loan, the total amount of
3 interest and finance charges on the mortgage loan, the interest rate on the mortgage
4 loan, the amount of each payment to be made on the mortgage loan, a description of
5 the collateral taken for the mortgage loan, a history of all payments received by the
6 licensee on the mortgage loan, a detailed history of the amount of each payment that is
7 applied to the reduction of the mortgage loan principal, the interest that accrues on the
8 mortgage loan, and any other fees and charges that are related to the mortgage loan.
9 The licensee shall retain the record required by this subsection for three years after the
10 loan is sold to another mortgage loan servicing agent or after the mortgage loan is
11 satisfied, whichever occurs first.

12 **Sec. 06.60.260. Availability of out-of-state records.** A licensee who operates
13 an office or other place of business outside his state that is licensed under this chapter
14 shall, at the request of the department,

15 (1) make the records of the office or place of business available to the
16 department at a location within this state; or

17 (2) reimburse the department reasonable costs that are incurred by the
18 department during an investigation or examination made at the office or place of
19 business, as provided in AS 06.60.340(d).

20 **Sec. 06.60.270. Disqualified persons.** (a) A disqualified person may not serve
21 as an officer, a director, a partner, a shareholder controlling an ownership interest of
22 10 percent or more, a trustee, an independent contractor, or an employee of a licensee
23 without the prior written approval of the department. In this subsection, "employee"
24 means an individual who negotiates an agreement with a member of the public for the
25 licensee or who has access to, or responsibility for, escrow accounts or escrow money
26 held by the licensee.

27 (b) A licensee may not permit a disqualified person to obtain a controlling
28 ownership interest of 10 percent or more in the licensee's business without the prior
29 written approval of the department.

30 (c) Before an officer, director, or other person may obtain a controlling
31 ownership interest of 10 percent or more in the business of a licensee, the officer,

1 director, or other person shall authorize the department to access the officer's,
2 director's, or other person's criminal history information in this state to determine
3 whether the officer, director, or other person is a disqualified person.

4 (d) In this section,

5 (1) "disqualified person" means a person who

6 (A) pleads guilty of, is convicted of, or pleads no contest to an
7 offense that is a felony within the previous seven years; or

8 (B) is held liable for an act that involves dishonesty or fraud by
9 a final judgment in a civil action or by an administrative judgment by a public
10 agency within the previous five years;

11 (2) "offense" means a criminal offense under

12 (A) AS 11.46;

13 (B) a law in another state that is substantially similar to an
14 offense under AS 11.46; or

15 (C) P.L. 101-73 (Financial Institutions Reform, Recovery, and
16 Enforcement Act of 1989).

17 **Sec. 06.60.280. Minimum net worth required for certain licensees.** If a
18 licensee conducts business as a mortgage loan servicing agent for other mortgage
19 lenders or investors, the licensee may not engage in an activity that is authorized under
20 this chapter unless the licensee continuously maintains minimum net worth in the
21 following amount based on the average monthly balance of the accounts maintained
22 by the licensee:

AVERAGE MONTHLY BALANCE	MINIMUM NET WORTH REQUIRED
\$100,000 or less.....	\$ 25,000
More than \$100,000 but not more than \$250,000	50,000
More than \$250,000 but not more than \$500,000	100,000
More than \$500,000 but not more than \$1,000,000	200,000
More than \$1,000,000	250,000

23
24
25
26
27
28
29
30 **Sec. 06.60.290. Posting of license.** A licensee shall conspicuously post the
31 license in the place of business of the licensee.

1 **Article 3. Discipline of Licensee.**

2 **Sec. 06.60.300. Revocation and suspension of a license.** The department
3 shall revoke the license of a licensee if the department finds that

4 (1) the licensee has failed to

5 (A) pay the annual license fee;

6 (B) maintain in effect a bond required under AS 06.60.060; or

7 (C) comply with a provision of this chapter or a lawful demand,
8 ruling, or requirement of the department made under and within the authority
9 of this chapter; or

10 (2) a fact or condition exists that would have constituted grounds for
11 denial of the issuance of the license

12 **Sec. 06.60.310. Surrender of license.** (a) A licensee may surrender a license
13 issued to the licensee by delivering written notice to the department that the licensee
14 intends to surrender the license, except that a licensee may not surrender a license until
15 all loans of that licensee have either been paid in full or sold.

16 (b) A licensee shall surrender a license issued to the licensee if the licensee
17 has not engaged in loan activity for 12 consecutive months.

18 (c) Surrender of a license under this section does not affect the licensee's civil
19 or criminal liability for acts committed before surrender of the license.

20 **Sec. 06.60.320. Effect of revocation, suspension, or surrender of license.**

21 The revocation, suspension, or surrender of a license does not impair or otherwise
22 affect the rights or obligations of a preexisting lawful contract between the licensee
23 and a borrower. If the department has revoked a license, the licensee shall divest itself
24 of all outstanding loans that were issued under this chapter by selling or assigning
25 them to another licensee, except that the divestment must be approved by the
26 department.

27 **Sec. 06.60.330. Reinstatement of revoked license.** The department may
28 reinstate a revoked license if the licensee complies with this chapter or with a demand,
29 ruling, or requirement made by the department under this chapter. Before
30 reinstatement of a license, the licensee shall pay the annual license fee required under
31 AS 06.60.210.

1 **Sec. 06.60.340. Examination of licensees.** (a) The department shall conduct
2 an examination of a licensee to determine whether the licensee is complying with the
3 provisions of this chapter and regulations adopted by the department and to obtain
4 information required by the department under this chapter. The department shall
5 conduct the examination at least once every 36 months.

6 (b) The department shall conduct other examinations, periodic audits, special
7 audits, investigations, and hearings as may be necessary and proper for the efficient
8 administration of this chapter.

9 (c) For the purposes of conducting an examination under this section, the
10 department

11 (1) shall have free access to the place of business, books, accounts,
12 safes, and vaults of the licensee;

13 (2) may conduct the examination without prior notice to the licensee;
14 and

15 (3) may examine, under oath or affirmation, all persons whose
16 testimony the department may require to conduct the examination.

17 (d) A licensee shall reimburse the department reasonable costs incurred by the
18 department to conduct the examination. The reimbursement under this subsection may
19 not exceed the rate of \$75 an hour for the examination, plus travel, housing, and per
20 diem that does not exceed the per diem allowance for employees of the state under
21 A.S. 39.20.110.

22 **Sec. 06.60.350. False information in course of investigation or examination**
23 **prohibited.** A person may not knowingly give or cause to be given to the department
24 a document or an oral or written statement or report that is false in any respect in the
25 course of an investigation or examination by the department under this chapter.

26 **Sec. 06.60.360. Authority of department.** The department may make a ruling,
27 demand, or finding that the department determines is necessary for the proper conduct
28 of the licensee's business regulated by this chapter and the enforcement of this chapter.
29 The ruling, demand, or finding must be consistent with this chapter.

30 **Article 4. Business Duties and Restrictions.**

31 **Sec. 06.60.400. False, misleading, or deceptive advertising prohibited.** A

1 person may not advertise, print, display, publish, distribute, broadcast, or cause or
2 permit to be advertised, printed, displayed, published, distributed, or broadcast, in any
3 manner a statement or representation with regard to the rates, terms, or conditions for
4 a mortgage loan that is false, misleading, or deceptive.

5 **Sec. 06.60.410. Compliance with federal requirements.** If the regulations
6 apply to a person under federal law, a person shall conduct the person's affairs under
7 12 CFR Part 226 and other regulations adopted by the federal government under

8 (1) 12 U.S.C. 2601 - 2617 (Real Estate Settlement Procedures Act of
9 1974);

10 (2) 12 U.S.C. 2801 - 2810 (Home Mortgage Disclosure Act of 1975);

11 (3) 12 U.S.C. 2901 - 2908 (Community Reinvestment Act of 1977);

12 (4) 15 U.S.C. 1601 - 1666j and 1671 - 1693r (Consumer Credit
13 Protection Act); and

14 (5) 42 U.S.C. 3601 - 3631 (Fair Housing Act of 1968).

15 **Sec. 06.60.420. Prohibited activities.** In addition to activities prohibited
16 elsewhere in this chapter or by another law, a person may not, in the course of a
17 mortgage loan transaction,

18 (1) misrepresent or conceal material facts or make false promises
19 likely to influence, persuade, or induce an applicant for a mortgage loan or a borrower
20 enter into a mortgage loan transaction;

21 (2) pursue a course of misrepresentation through an agent;

22 (3) improperly refuse to issue a satisfaction of a mortgage loan;

23 (4) fail to account for or deliver to a person money, a document, or
24 another thing of value obtained in connection with a mortgage loan, including money
25 provided by a borrower for a real estate appraisal or a credit report if the person is not
26 entitled to retain the money under the circumstances;

27 (5) pay, receive, or collect, in whole or in part, a commission, fee, or
28 other compensation for brokering a mortgage loan in violation of this chapter,
29 including a mortgage loan brokered by any unlicensed person other than an exempt
30 person;

31 (6) fail to disburse money in accordance with a written commitment or

1 agreement to make a mortgage loan;

2 (7) engage in a transaction, practice, or course of business that is not
3 engaged in by the person in good faith or fair dealing or that constitutes a fraud on a
4 person in connection with the brokering, making, purchase, or sale of a mortgage loan;

5 (8) fail promptly to pay when due reasonable fees to a licensed
6 appraiser for appraisal services that are

7 (A) requested from the appraiser in writing by the person; and

8 (B) performed by the appraiser in connection with the
9 origination or closing of a mortgage loan for a customer of the person;

10 (9) influence or attempt to influence through coercion, extortion, or
11 bribery the development, reporting, result, or review of a real estate appraisal sought
12 in connection with a mortgage loan; this paragraph does not prohibit a person from
13 asking an appraiser to

14 (A) consider additional appropriate property information;

15 (B) provide further detail, substantiation, or explanation for the
16 appraiser's value conclusion; or

17 (C) correct errors in the appraisal report;

18 (10) in a loan commitment or prequalification letter, make a false or
19 misleading statement, or omit relevant information or conditions that the person knew
20 or reasonably should have known from a preliminary examination of the borrower's
21 loan application, credit report, assets, and income, except that this paragraph does not
22 apply if

23 (A) the borrower made a false or misleading statement or
24 omitted relevant information in the loan application that the person relied on
25 when issuing the loan commitment or prequalification letter; or

26 (B) the person funds the loan at the rate, terms, and costs stated
27 in the good faith estimate provided to the borrower at the time of the
28 prequalification letter or loan commitment;

29 (11) engage in a practice or course of business in which the ultimate
30 rates, terms, or costs of mortgage loans are materially worse for the borrowers than
31 they are represented to be in the first good faith estimates the person provides to the

1 borrowers; this paragraph does not apply if

2 (A) the person's generally published or advertised rates, terms,
3 or costs, if any, change for a borrower's loan program; or

4 (B) new or changed information from the borrower makes it
5 necessary to change the loan program offered to the borrower.

6 **Sec. 06.60.430. Certain refinancing prohibited.** (a) A mortgage lender or a
7 mortgage broker may not refinance a mortgage loan within 12 months after the date
8 the mortgage loan is originated by the lender or broker, unless the refinancing is in the
9 borrower's best interest.

10 (b) The factors to be considered when determining if a mortgage is in the
11 borrower's best interest include whether

12 (1) the borrower's new monthly payment is lower than the total of all
13 monthly obligations being refinanced, after taking into account the costs and fees of
14 the refinancing;

15 (2) the amortization period of the new loan is different from the
16 amortization period of the loan being refinanced;

17 (3) the borrower receives cash in excess of the costs and fees of the
18 refinancing;

19 (4) the rate of interest of the borrower's promissory note is reduced;

20 (5) the loan changes from an adjustable rate loan to a fixed rate loan
21 after taking into account costs and fees;

22 (6) the refinancing is necessary to respond to a bona fide personal need
23 or an order of a court of competent jurisdiction;

24 (7) the original term of the loan being refinanced is two years or less;
25 and

26 (8) the refinancing is being made to prevent a foreclosure on an
27 existing loan.

28 **Sec. 06.60.440. Escrow accounts.** (a) A mortgage lender and a mortgage
29 broker shall keep in an escrow account all money that a borrower is required to pay to
30 defray future taxes or insurance premiums or for other lawful purposes. The escrow
31 account must be a trust account or another account that is segregated from the other

1 accounts of the mortgage lender or mortgage broker. The mortgage lender and
2 mortgage broker may not commingle the borrower's money with the general funds of
3 the mortgage lender and mortgage broker.

4 (b) A mortgage lender and a mortgage broker may not require a borrower to
5 pay money into escrow to defray future taxes, to defray insurance premiums, or for
6 another purpose, in connection with a subordinate mortgage loan, unless an escrow
7 account for that purpose is not being maintained for the mortgage loan that is superior
8 to the subordinate mortgage loan.

9 (c) A mortgage lender or a mortgage broker who is holding money in escrow
10 for insurance premiums shall notify the insurer in writing within 30 days after the
11 billing address of the mortgage lender or mortgage broker changes, or 60 days before
12 the renewal date of the insurance policy, whichever is later.

13 **Article 5. Enforcement.**

14 **Sec. 06.60.500. Stop orders.** (a) If, after investigation, the department has
15 reasonable grounds to believe that a licensee is conducting business in an unsafe or
16 injurious manner, the department shall, by written order addressed to the licensee,
17 direct the licensee to stop the unsafe or injurious practices.

18 (b) If the department determines that a person is engaged in the activities of a
19 mortgage lender or a mortgage broker without a license required by this chapter, the
20 department may order the person to stop engaging in the activities.

21 (c) An order issued under (b) of this subsection is considered rescinded, if,
22 within 30 days after the order is served on the person, the person files with the
23 department a written request for a hearing, and the department fails to hold the hearing
24 within 60 days after the request is filed.

25 (d) An order issued under this section is effective immediately, but only
26 becomes final as indicated by AS 06.60.510.

27 **Sec. 06.60.510. Finality of stop orders.** (a) If the department provides written
28 notice to a licensee of the department's intention to make a stop order issued under
29 AS 06.60.500 final, the notice gives the reasons for the order, and the notice contains a
30 hearing notice, the order becomes final if

31 (1) the licensee does not request a hearing within 30 days after the

1 department provides the notice, and the department does not order a hearing;

2 (2) after a hearing, it appears to the department that the licensee is
3 conducting business in an unsafe or injurious manner, or that the person, if not a
4 licensee, is engaged in the activities of a mortgage lender or mortgage broker without
5 a license required by this chapter.

6 (b) In this section, "hearing notice" means a notice that indicates that, if the
7 department receives a request for a hearing, the department will set a hearing to begin
8 within 15 business days after receiving the request or on a date agreed to by the
9 department and the person to whom the hearing notice is given.

10 **Sec. 06.60.520. Censure, suspension, or bar.** (a) In addition to any other
11 remedy provided under this chapter, the department may, after appropriate notice and
12 opportunity for a hearing, by order, censure or suspend a licensee for a period not to
13 exceed 12 months or bar another person from a position of employment, management,
14 or control of a licensee if the department finds that

15 (1) the censure, suspension, or bar is in the public interest;

16 (2) the licensee or person has knowingly committed or caused a
17 violation of this chapter or a regulation adopted under this chapter; and

18 (3) the violation has caused material damage to the licensee or to the
19 public.

20 (b) When the person who is the subject of a proposed order under this section
21 receives a notice of the department's intention to issue an order under this section, the
22 person is immediately prohibited from engaging in any activities for which a license is
23 required under this chapter.

24 (c) A person who is suspended or barred under this section is prohibited from
25 participating in a business activity of a licensee and from engaging in a business
26 activity on the premises where a licensee is conducting the licensee's business. This
27 subsection may not be construed to prohibit a suspended or barred person from having
28 the person's personal transactions processed by a licensee.

29 **Sec. 06.60.530. Civil penalty for violations.** (a) A person who knowingly
30 violates a provision of this chapter or a regulation adopted under this chapter is liable
31 for a civil penalty not to exceed \$10,000 for each violation.

1 (b) The remedies provided by this section and by other sections of this chapter
2 are not exclusive and may be used in any combination with other remedies allowed
3 under law to enforce the provisions of this chapter.

4 **Article 6. Collection of Program Administration Fee.**

5 **Sec. 06.60.600. Appointment of agents.** (a) The department shall collect a fee
6 of \$10 for each mortgage loan document recorded for a mortgage loan handled by a
7 licensee.

8 (b) The department may contract with a licensee or another person to act as an
9 agent to collect the program administration fee.

10 (c) The department is not liable for an agent's defalcation or failure to account
11 for the program administration fees collected by the agent, but the department may
12 require the agent to obtain a bond in an adequate sum conditioned on the agent's
13 faithfully accounting for all money collected under this section.

14 **Sec. 06.60.610. Retention and reporting of fees.** (a) An agent may retain 25
15 percent of the program administration fees collected by the agent.

16 (b) An agent shall transmit to the department for deposit in the general fund
17 the program administration fees collected by the agent under this section, except the
18 amount authorized to be retained under (a) of this section, and report to the department
19 the number of mortgage loan documents recorded by the agent under AS 40.17.

20 (c) An agent shall remit the program administration fees and report required
21 under (b) of this section to the department by January 15 for the preceding calendar
22 year.

23 (d) The department may assess against an agent who does not comply with (c)
24 of this section a civil penalty of one and one-half percent of the amount of the program
25 administration fees that the agent is required to transmit to the department. The
26 department may assess the penalty for each entire month and each partial month that
27 the proceeds are delinquent.

28 **Article 7. Miscellaneous Provisions.**

29 **Sec. 06.60.700. Applicability of administrative procedures.** The provisions
30 of AS 44.62 (Administrative Procedure Act) apply to an action of the department to
31 deny, revoke, or suspend a license under this chapter and to hearings and orders of the

1 department.

2 **Sec. 06.60.710. Regulations.** The department may adopt regulations under
3 AS 44.62 (Administrative Procedure Act) to implement this chapter.

4 **Sec. 06.60.720. Relationship to federal and other state law.** (a) If a
5 provision of this chapter is preempted by or conflicts with federal law in a particular
6 situation, the provision does not apply to the extent of the preemption or conflict.

7 (b) If a provision of this chapter conflicts with another state law in a particular
8 situation, the provision in this chapter governs to the extent of the conflict.

9 **Article 8. General Provisions.**

10 **Sec. 06.60.990. Definitions.** In this chapter, unless the context otherwise
11 requires,

12 (1) "agent" does not include a person who is a state employee when
13 acting in the capacity of a state employee;

14 (2) "borrower" means an individual who receives a mortgage loan;

15 (3) "broker" means to engage in the activity of a mortgage broker;

16 (4) "department" means the Department of Commerce, Community,
17 and Economic Development;

18 (5) "dual license" means a license issued under AS 06.60.010(c);

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

20 (7) "license" means a license issued under this chapter;

21 (8) "licensee" means a person who holds a license issued under this
22 chapter;

23 (9) "mortgage broker" means a person who, for compensation or gain,
24 or in the expectation of compensation or gain, directly or indirectly, by telephone, by
25 electronic means, by mail, or in person with the borrower or potential borrower,

26 (A) accepts or offers to accept an application for a mortgage
27 loan;

28 (B) solicits or offers to solicit a mortgage loan;

29 (C) negotiates the terms or conditions of a mortgage loan; or

30 (D) issues mortgage loan commitments or interest rate
31 guarantee agreements to borrowers;

1 (10) "mortgage lender" means a person who consummates and funds a
2 mortgage loan and who is named as the payee in the promissory note and as the
3 beneficiary of the deed of trust; "mortgage lender" does not include a subsequent
4 purchaser of a mortgage loan or an interest in a mortgage loan that is originated by a
5 licensee under this chapter;

6 (11) "mortgage loan"

7 (A) means a loan made to an individual if the proceeds are to
8 be used primarily for personal, family, or household purposes and if the loan is
9 secured by a mortgage or deed of trust on an interest in a residential owner-
10 occupied property for one to four families located in the state and regardless of
11 where the loan is made;

12 (B) includes the renewal or refinancing of a loan;

13 (C) does not include loans

14 (i) or extensions of credit to buyers of real property for
15 a part of the purchase price of the property by persons selling the
16 property owned by them;

17 (ii) to persons related to the lender by blood or
18 marriage;

19 (iii) to persons who are employees of the lender; or

20 (iv) made primarily for a business, commercial, or
21 agricultural purpose or for construction of residential property;

22 (12) "mortgage loan servicing agent" means a person who acts on
23 behalf of a mortgage lender to collect payments on a mortgage loan and enforce the
24 terms of a mortgage loan;

25 (13) "program administration fee" means the fee described under
26 AS 06.60.600(a);

27 (14) "records" includes books, accounts, papers, files, and other
28 records;

29 (15) "residential property" means improved real property used or
30 occupied, or intended to be used or occupied, for residential purposes.

31 **Sec. 06.60.995. Short title.** This chapter may be known as the Mortgage

1 Lending Act of 2006.

2 * Sec. 2. AS 44.62.330(a) is amended by adding a new paragraph to read:

3 (46) Department of Commerce, Community, and Economic
4 Development relating to mortgage lending under AS 06.60.

5 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 TRANSITION: LICENSING OF CURRENT MORTGAGE LENDERS AND
8 MORTGAGE BROKERS. Notwithstanding AS 06.60.010, enacted by sec. 1 of this Act, a
9 person is engaging in activities for which a license is required under AS 06.60, enacted
10 by sec. 1 of this Act, immediately before the effective date of AS 06.60 is not required to
11 comply with the licensing requirements of AS 06.60 until March 1, 2008. In this section,
12 "license," "mortgage broker," and "mortgage lender" have the meanings given in
13 AS 06.60.990, enacted by sec. 1 of this Act.

14 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 TRANSITION: REGULATIONS. The Department of Commerce, Community, and
17 Economic Development may proceed to adopt regulations necessary to implement the
18 changes made by this Act. The regulations take effect under AS 44.62 (Administrative
19 Procedure Act), but not before the effective date of the respective statutory change.

20 * Sec. 5. Section 4 of this Act takes effect immediately under AS 01.10.070(c).

21 * Sec. 6. Except as provided in sec. 5 of this Act, this Act takes effect July 1, 2007.

HB

429

Alaska State Legislature



Official Business

State Capitol
Juneau, AK 99801-1192

Memorandum

TO: Representative Tom Anderson, Chair
Representative Pete Kott, Vice Chair

FROM: Members, House Labor and Commerce Committee

DATE: April 25, 2006

RE: House Bill 429, An Act Re-Establishing the Department of Community and Regional Affairs

We respectfully request that HB 429, an act re-establishing the Department of Community and Regional Affairs, be waived from the House Labor and Commerce Committee. The bill received an extensive hearing in House Community and Regional Affairs, with testimony from former commissioners, department staff, and local government officials. It passed out of committee with five "do pass" and two "no recommendations."

There is a significant fiscal note which we are working to reduce, and will address in House Finance, the next committee of referral.

Thank you.

Tom Anderson

Handwritten signature of Tom Anderson in black ink.

Pete Kott

Handwritten signature of Pete Kott in black ink.

Gabrielle LeDoux

Handwritten signature of Gabrielle LeDoux in black ink.

Bob Lynn

Handwritten signature of Bob Lynn in black ink.

Norm Rokeberg

Handwritten signature of Norm Rokeberg in black ink.

Harry Crawford

Handwritten signature of Harry Crawford in black ink.

David Guttenberg

Handwritten signature of David Guttenberg in black ink.

Unfinished Business

Mr. Speaker, I move and ask unanimous consent that HB 429 –

“An Act reestablishing the Department of Community and Regional Affairs; relating to the Department of Commerce, Community, and Economic Development and to the membership of various boards and commissions; and providing for an effective date.”

be waived from the Labor & Commerce Committee and moved onto its next assignment in the House Finance Committee.

I have the signatures and consent of all the Committee members.

HB

431

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB431-DPS-ABC-4-6-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title "An Act relating to sales of wine by a winery licensee." RDU Alcoholic Beverage Control Board
 Component ABC Board
 Sponsor Representative Ledoux
 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

ANALYSIS: (Attach a separate page if necessary)

Section two decreases the biennial winery license fee from \$500 to \$100.

****There are six wineries in Alaska. They are evenly split in the biennial license cycles, meaning that three will renew in even numbered fiscal years and three renew in odd numbered years. So the loss of revenue to the state would be 3 x \$400 = \$1,200 each fiscal year.

Prepared by: Director Douglas B. Griffin
 Division: Alcoholic Beverage Control Board
 Approved by: Commissioner William Tandeske
 Agency: Department of Public Safety

Phone 907-269-0351
 Date/Time 4/6/06 4:31 PM
 Date 4/6/2006

24-LS1578VG
Luckhaupt
4/6/06

CS FOR HOUSE BILL NO. 431()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE LEDOUX

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sales of wine by a winery licensee."

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

3 * Section 1. AS 04.11.140(b) is amended to read:

4 (b) The holder of a winery license may sell wine in quantities of

5 (1) less than five gallons

6 (A) to an individual who is present on the licensed premises; or

7 (B) by shipping to an individual if the shipment is not to an

8 area that has prohibited the importation or possession of alcoholic

9 beverages under this chapter or to an area that has limited the

10 importation or possession of alcoholic beverages unless the sale complies

11 with the limitation:

12 (2) more than five gallons to a person who is licensed under this title,

13 or in another state or country.

13 AAC 104.649
SHIPPING REQUIREMENTS

ALASKA STATE LEGISLATURE



SESSION ADDRESS
Alaska State Capitol
Juneau, AK 99801-1182
(907) 465-2487
Fax (907) 465-4956

INTERIM ADDRESS
112 Mill Bay Road
Kodiak, AK 99615
(907) 486-8872
Fax (907) 486-5264

Representative Gabrielle LeDoux

Sponsor Statement for House Bill No. 431 "An Act relating to sales of wine by a winery licensee."

Wine production in Alaska has only begun to develop. Most wineries in the state are "mom and pop" businesses. Under current state law, none of these wineries can sell or ship a bottle or two of wine to customers within the state unless they are on the premises. This bill evens the playing field for small wineries to participate in direct sales to a niche market.

This bill will allow the holder of a winery license to ship less than five gallons of wine to an individual provided that the area has not prohibited or limited the importation or possession of alcoholic beverages. According to the Alaska Department of Revenue, in FY 2005 there were six wineries that produced approximately 1,900 gallons of wine and contributed approximately \$4,750 in taxes.

The intent is for small, local winery operations to take advantage of a very specialized market. Alaskan wine is a value added premium product, which is suited to internet and phone sales as currently there is no winery restaurant licensee equivalent to a brewpub license. Mr. Douglas Griffin, Director of the State of Alaska Department of Public Safety Alcoholic Beverage Control Board has stated that in his opinion, "this bill simply places Alaskan wineries on a more equal footing ..with wineries in other states"

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB431-DPS-ABC-4-6-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title "An Act relating to sales of wine by a winery licensee." RDU Alcoholic Beverage Control Board
 Component ABC Board
 Sponsor Representative Ledoux
 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

ANALYSIS: (Attach a separate page if necessary)

Section two decreases the biennial winery license fee from \$500 to \$100.

****There are six wineries in Alaska. They are evenly split in the biennial license cycles, meaning that three will renew in even numbered fiscal years and three renew in odd numbered years. So the loss of revenue to the state would be 3 x \$400 = \$1,200 each fiscal year.

Prepared by: Director Douglas B. Griffin
 Division: Alcoholic Beverage Control Board
 Approved by: Commissioner William Tandeske
 Agency: Department of Public Safety

Phone 907-269-0351
 Date/Time 4/6/06 4:31 PM
 Date 4/6/2006

From: Steven E. Thomsen [alaskawildwine@gci.net]
Sent: Saturday, February 25, 2006 2:29 PM
To: Christine Marasigan

Under current statutes a private citizen in Alaska, such as yourself, can buy wine directly from wineries in other states via internet but you cannot buy wine directly from an Alaskan winery. House Bill 431 will allow you the freedom to "Buy Alaska" if you so choose.

House Bill 431 will bring Alaska statutes into compliance with federal law. A.S. 04.11.140.(b) (1) prohibits Alaskan wineries from selling wine to individuals residing out of the state. Supporting documents from the former Governor Tony Knowles and the Alcoholic Beverage Control Board admit the state has no jurisdiction in sales outside the state boundaries. Additionally, the U.S. Supreme Court has ruled that state laws must treat direct sales of wine (wine sold from the winery directly to an individual not present at the winery) equally. At present, Alaska law favors wineries outside the state.

House bill 431 also attempts to equalize taxation in the alcohol industry while decreasing the impact on state revenues and supporting small Alaskan wineries. The excise tax on Alaska wine is one of the highest in the nation. Nationally the average wine excise tax is .64 cents and in Alaska the tax is \$2.50 per gallon. Local breweries received some tax relief to help fledgling breweries. Alaska's half a dozen small wineries seek similar tax relief.

This developing Alaska industry needs your support to prosper. Please support Alaskan businesses and pass House Bill 431.

Steven Thomsen
Alaskan Wilderness Wines



State of Alaska
Department of Public Safety
Alcoholic Beverage Control Board

Frank H. Murkowski, Governor
William Tandeske, Commissioner

March 14, 2006

The Honorable Gabrielle LeDoux
Alaska House of Representatives
State Capitol, Room 412
Juneau, Alaska 99801-1182

RE: House Bill 431 - "An Act relating to sales of wine by a winery licensee."

Dear Representative LeDoux:

Christine Marasigan of your office has requested that I provide written comments on HB 431. These comments reflect my position only as the Alcoholic Beverage Control Board has not taken a position on this bill.

HB 431 allows wineries in Alaska to ship wine it manufactures and bottles or barrels for sale to individuals who receive the wine in areas of the State of Alaska that have not prohibited the importation or possession of alcoholic beverages. The quantity shipped would be less than five gallons. Sales to an area of the state that limits the amount of importation or possession of alcoholic beverages would have to comply with the limitations. The fee for the winery license would be reduced from \$500 to \$100 for a biennial license.

This bill is largely an economic development initiative to assist the few existing small wineries and encourage the start up of additional wineries in Alaska. Based on the experience of wineries in the rest of the United States, the ability to ship by air or ground freight the wines it produces greatly increases the ability of a winery to expand and succeed. The existing law, which allows Alaskan wineries to directly ship to a person in another state or country, but not to Alaskans, is hard to defend from a public policy perspective. The only logical defense would be from a public protection position to simply make it more difficult for Alaskans to gain access to alcoholic beverages in any shape or form. But this prohibition of an Alaskan consumer having wine shipped directly to them only applies to Alaskan wineries and not to wineries outside of the state. The law provides for shipping bans to "dry" areas of the State and it is unlikely, in my judgment, that wines from Alaska wineries would be the most desirable product for a bootlegger or alcohol abuser.

Wineries clearly represent a business that benefits from a large value added premium. Much of the value of the wine comes from the vintner's talent, the uniqueness of the product, and access to the wine. Wineries will have no ability to grow even if it produces a desirable wine if customers cannot readily access the product. Right now the wineries depend on sales to persons physically at the winery and the ability to get wholesalers to market the small winery product to retailers. Concerns regarding delivery of wine to underage persons have not proven to be an issue for Alaskans that have been ordering wine from out-of-state wineries. Shippers willing to handle alcoholic beverages have become adept at insuring deliveries are made to customers who are at least 21 year old.

Alcoholic Beverage Control Board
5848 E. Tudor Road - Anchorage, AK 99507 - Voice (907) 269-0350 - Fax (907) 272-9412

HB 431 Statement - March 14, 2006

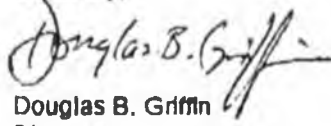
Page 2 of 2

In the final analysis, this bill simply places Alaskan wineries on a more equal footing (Alaska wineries are still limited to shipping less than five gallons while wineries out of state can ship larger quantities as long as it is for personal use) with wineries in other states when it comes to servicing Alaskans. The bill allows Alaskan wineries to benefit from the marketing power of the Internet and catalogs. Therefore, I support Section 1 of the bill.

I do oppose the reduction of the license fee from \$500 to \$100 simply as a matter of principle. The license fee is already one of the more modest amounts and making it only \$100 sets an undesirable precedent and will make it more difficult for the ABC Board to be supported by program fees.

I hope this statement is useful. I will happy to clarify points presented or answer any questions you may have.

Sincerely,



Douglas B. Griffin
Director

cc: Cliff Stone, Special Assistant, Department of Public Safety



Ignition Interlock Devices: Alaska CHARR encourages the use of ignition interlock devices for those convicted of multiple DWI's or a DWI that involved a BAC of .16 or higher. We support the use of ignition interlock devices as part of a reasonable court-ordered probationary sentence.



Alaska Wineries: Alaska's fledgling wine entrepreneurs are looking for some tax relief that will allow them to grow in a challenging and competitive marketplace. The excise tax on Alaska wine is one of the highest in the nation. Nationally, the average wine excise tax is \$.64. In Alaska the tax is \$2.50 per gallon, almost four times the national average. Local breweries received some tax relief to help small breweries. Alaska's half a dozen small wineries seek similar tax relief.

✓ Additionally the small wineries in Alaska ask for a change in the rules to allow them to ship their product to customers in Alaska. Recent U.S. Supreme Court rulings prohibit states from having two sets of rules for direct shipments of wine. Currently only Alaskan wineries are prohibited from shipping wine to fellow Alaskans while outside wineries are not prohibited. Alaska CHARR believes Alaskan wineries should have equal treatment and be able to ship their product locally.



DEC Food Code Changes: Alaska CHARR strongly supports food safety and responsible food service. We believe Alaska food service workers do a great job providing safe, healthy food and beverages to their customers. Alaska CHARR will continue to work with our Membership and the State of Alaska Department of Environmental Conservation to ensure the changes to the Alaska food code are reasonable and consistent.



Legislative Priorities

www.alaskacharr.com 1-800-476-2427 email: charr@gci.net

2006

LEGISLATIVE RESEARCH REPORT

FEBRUARY 10, 2006



REPORT NUMBER 06.123

BEER AND WINE PRODUCTION IN ALASKA

PREPARED FOR REPRESENTATIVE GABRIELLE LEDOUX

BY ROGER WITHINGTON, LEGISLATIVE ANALYST

You asked for information regarding breweries and wineries in Alaska. Specifically, you wished to know the number of breweries and wineries operating in Alaska, and an estimate of the number of gallons produced and sold by each business.

According to Johanna Bales, Revenue Audit Supervisor with the Tax Division of the Alaska Department of Revenue, there are currently ten breweries in Alaska that produced approximately 1.2 million gallons of beer, and six wineries that produced approximately 1,900 gallons of wine during FY 2005.¹ Table 1 provides a list of our breweries and wineries.

Unfortunately, Alaska Statute 43.05.230, Disclosure of Tax Returns and Reports, prevents Ms. Bales from providing us with production and sales figures specific to each producer. In addition, of these businesses that have a website, none posted production and sales figures. Based on the Alcoholic Beverage Tax set forth in AS 43.60, Alaska breweries contributed approximately \$42,000 in taxes, while the in-state wineries contributed approximately \$4,750.²

¹ Johanna Bales, Revenue Audit Supervisor with the Alaska Department of Revenue, Tax Division, can be reached at 907-269-6628.

² All in-state breweries meet the definition of a small brewery set forth in AS 43.60.010.

Table 1: Alaska Breweries and Wineries

Operation Type	Operation Name	Location
Breweries	The Glacier Brewhouse - Brews Brothers	Anchorage
	Moose's Tooth Brewing Co - Chugach Beverages LLC	Anchorage
	Midnight Sun Brewing Co	Anchorage
	Sleeping Lady Brewing Company	Anchorage
	Silver Gulch Brewing & Bottling Inc	Fairbanks
	Haines Brewing Company Inc	Haines
	Homer Brewing Company	Homer
	Alaskan Brewing, LLC	Juneau
	Kodiak Island Brewing Company L	Kodiak
	Great Bear Brewing Co – Pioneer Peak Brewing Co	Wasilla
Wineries	Denali Winery – U-Brew Wineries Inc	Anchorage
	Kodiak Island Winery	Chiniak
	Great Land Wines Ltd	Haines
	Bear Creek Winery, LLC	Kachemak
	Alaska Wilderness Wines	Kodiak
	Valley Winery LLC	Wasilla
Notes:	<p>Three businesses listed above were licensed with the Alaska Department of Revenue (DOR) during FY2005. Business are not required to be licensed with the DOR until they actually produce and sell alcohol. According to the Alaska Alcoholic Beverage Control Board (ABC), there are three additional business that are licensed for FY2006: the Mother Lode (Brewpub) in Anchorage, Alice's Champagne Palace (Brewpub) in Homer, and the Copper River Brewery in Cordova. Please keep in mind that a license from the ABC does not guarantee that the business will produce and sell alcoholic beverages.</p>	
Source:	<p>Johanna Bales, Revenue Audit Supervisor with the Alaska Department of Revenue, Tax Division, 907-269-6628.</p>	

Attached, please find an excerpt from the Alaska Department of Revenue, Tax Division's *FY 2005 Annual Report of Operations* that provides summary information on Alaska's Alcoholic Beverage Tax.

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

STATE OF ALASKA
DEPARTMENT OF REVENUE
Tax Division



Fiscal Year 2005
ANNUAL REPORT OF DIVISION OPERATIONS

On the internet at:
www.tax.state.ak.us

Frank Murkowski
Governor

William A. Corbus
Commissioner

ALCOHOLIC BEVERAGES TAX

AS 43.60

Description

Alaska levies a tax on alcoholic beverages sold in Alaska. The tax is collected primarily from wholesalers and distributors of alcoholic beverages.

Rates

<i>Product</i>	<i>Current Rate Per Gallon</i>
Liquor (more than 21% alcohol)	\$12.80
Wine (21% alcohol or less)	2.50
Beer (Malt Beverages and Cider)	1.07
Beer (Small Breweries)	0.35

Returns

Taxpayers file returns and pay tax monthly. The returns and payment are due by the last day of the month following the month of sale.

Exemptions

Sales to facilities operated by one of the uniformed services of the United States are exempt.

Disposition of Revenue

The Division deposits all alcoholic beverage tax revenue into the General Fund. The Department of Administration separately accounts for 50% of the tax collected and deposits it into the alcohol and other drug abuse treatment and prevention fund.

History

The alcoholic beverage tax dates back to 1933 when the Legislature enacted a tax on beer and wine at a rate of 5¢ per gallon. Taxpayers filed alcoholic beverage tax returns monthly.

In 1937, the territorial legislature enacted a tax on liquor at a rate of 50¢ per gallon. At the same time, the rate for wine increased to 15¢ per gallon.

Since 1937, the legislature has made minor changes to the alcoholic beverage tax statutes. In addition, between 1937 and 1983, the legislature increased Alaska's tax rates to correspond with rate changes made by other states.

The legislature significantly increased the tax rates on all three alcoholic beverages effective October 1,

2002. However, this legislation allows breweries meeting the qualifications of 26 U.S.C. 5051(a)(2) (small breweries) to pay tax at the lower rate of 35 cents per gallon on the first 60,000 barrels of beer (malt beverages) sold in Alaska. At the same time, the legislature created the alcohol and other drug abuse treatment and prevention fund and directed that 50% of the alcoholic beverage tax be deposited into this fund for alcohol and drug abuse treatment programs.

Between 1937 and 2002, alcoholic beverage tax rates have changed as follows:

<i>Liquor</i>	<i>Per Gallon</i>
1937	\$.50
1941	\$1.00
1945	\$1.60
1946	\$2.00
1947	\$3.00
1957	\$3.50
1961	\$4.00
1983	\$5.60
2002	\$12.80

<i>Wine</i>	<i>Per Gallon</i>
1933	\$.05
1937	\$.15
1947	\$.25
1957	\$.50
1961	\$.60
1983	\$.85
2002	\$2.50

<i>Beer (Malt Beverages)</i>	<i>Per Gallon</i>
1933	\$.05
1947	\$.10
1957	\$.25
1983	\$.35
2002	\$1.07

<i>Beer (Malt Beverages) Produced by Small Breweries</i>	<i>Per Gallon</i>
2002	\$.35

See following page for FY 2005 Statistics.

ALCOHOLIC BEVERAGES TAX
AS 43.60

FY 2005 Statistics

Product	Gallons	Tax Collected
Liquor	1,252,685	\$16,034,366
Beer, Malt Beverage & Cider	13,192,217	14,115,672
Wine	1,837,976	4,594,941
Beer, Small Brewery	2,202,163	770,757
Penalties, Interest and Refunds		914
Total Tax Collected		
<i>Including Penalties, Interest & Refunds</i>		\$35,516,650
<i>Less Amt Transferred to Alcohol and</i>		
<i>Other Drug Abuse Treatment & Prevention</i>		(17,758,496)
<i>Fund</i>		
Total Tax Collections - General Fund		\$17,758,154
Number of Returns		310
Number of Taxpayers		26
Program Cost		\$191,509
Staffing (full-time equivalent)		3.1

SEATTLE POST-INTELLIGENCER

http://seattlepi.nwsourc.com/opinion/264136_wined.asp

Beer And Wine Sales: Cork t' e fee

Friday, March 24, 2006

SEATTLE POST-INTELLIGENCEH EDITORIAL BOARD

One of the toughest jobs of any legislature is weeding. There are all kinds of laws that started out as good ideas. But over decades these laws have either ceased to be effective or end up being more a tribute to bureaucracy than good government. Washington's regulatory structure for wine and beer is a case in point.

Locally based business Costco proposed an outrageous plan: It would like to sell wine and beer directly from the manufacturers to its customers. This would save consumers money.

But the state regulatory system doesn't work that way. It wants the winemaker or brewery to first sell their product to a distributor, then to a warehouse and eventually to market. At each step of the process, a carrying fee is added.

These layers are supposed to encourage moderation (because we all pay more for wine) as well as protect independent wine shops.

Phooey! All this system does is cost consumers money. U.S. District Court Judge Marsha Pechman said as much, calling the state's system "irreconcilably in conflict with federal antitrust law."

Small wineries and breweries will do better selling directly to customers, distributors or retailers like Costco. Small retail outlets will have to come up with a new business, perhaps selling undiscovered labels. What's most important here is that it ought to be the quality of the product, not the regulatory scheme, that determines any venture's success or failure.

It's time to pull weeds; we need a regulatory structure that works for this century's consumers.

© 1998-2006 *Seattle Post-Intelligencer*

HB

439

ALASKA STATE HOUSE OF REPRESENTATIVES

**Contact:**

Interim Address:

3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

HB 439 Comparison of Bill Versions

Changes made to original bill by the Labor & Commerce Committee Substitute:

Page 23, Line 17:

Deleted Sec. 2. Added language to AS 21.45.010 applicability in Chapter 45 "Life Insurance and Annuities" that allowed provisions of Chapter 45 to be "entirely superseded" by provisions adopted under the Interstate Insurance Product Regulation Compact.

Page 23, line 21:

Deleted Sec. 3. Added language to AS 21.51.010 applicability in Chapter 51 "Health Insurance Policies" that allowed provisions of Chapter 51 to be "entirely superseded" by provisions adopted under the Interstate Insurance Product Regulation Compact.

Page 23, line 25:

Section 4 is renumbered as Section 2.

1 and Operating Procedures promulgated by the Commission, are binding upon
2 the Compacting States.

3 (b) All agreements between the Commission and the
4 Compacting States are binding in accordance with their terms.

5 (c) Upon the request of a party to a conflict over the meaning
6 or interpretation of Commission actions, and upon a majority vote of the
7 Compacting States, the Commission may issue advisory opinions regarding the
8 meaning or interpretation in dispute.

9 (d) In the event any provision of this Compact exceeds the
10 constitutional limits imposed on the legislature of any Compacting State, the
11 obligations, duties, powers or jurisdiction sought to be conferred by that
12 provision upon the Commission shall be ineffective as to that Compacting
13 State, and those obligations, duties, powers or jurisdiction shall remain in the
14 Compacting State and shall be exercised by the agency thereof to which those
15 obligations, duties, powers or jurisdiction are delegated by law in effect at the
16 time this Compact becomes effective.

17 * Sec. 2. AS 21.45.010 is amended by adding a new subsection to read:

18 (b) The provisions of this chapter may be entirely superseded by uniform
19 standards, rules, procedures, or other action adopted under the Interstate Insurance
20 Product Regulation Compact under AS 21.42.700.

21 * Sec. 3. AS 21.51.010 is amended by adding a new subsection to read:

22 (b) The provisions of this chapter may be entirely superseded by uniform
23 standards, rules, procedures, or other action adopted under the Interstate Insurance
24 Product Regulation Compact under AS 21.42.700.

25 * Sec. 4. AS 21.53.010 is amended to read:

26 **Sec. 21.53.010. Prohibited sale or advertising.** An insurer, hospital or
27 medical service corporation, or [A] fraternal benefit society may not advertise, market,
28 sell, deliver, or offer for delivery a long-term care insurance policy unless the policy
29 complies with this chapter, AS 21.18, AS 21.45, the health insurance requirements
30 imposed under AS 21.51, and, if a group policy, the group health insurance
31 requirements imposed under AS 21.54, or unless it has been approved by and

1 complies with the Interstate Insurance Product Regulation Compact under
2 AS 21.42.700.

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 10, 2006

FURTHER REFERRALS: Judiciary

Date of Committee Action: MARCH 1, 2006

The LABOR AND COMMERCE Committee considered:

HB 439

HOUSE BILL NO. 439

INSURANCE PRODUCT REGULATION COMPACT

"An Act relating to authorizing the state to join with other states entering into the Interstate Insurance Product Regulation Compact and authorizing the compact to supersede existing statutes by approving standards, rules, or other action under the terms of the compact."

Recommends it be replaced with HCS or HCS for HB 439 (LBC)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
CEIS				X

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>Robert Crawford for DM</i>	CRAWFORD			X	
<i>Michelle Holton</i>	HOLTON	X			
<i>[Signature]</i>	[Signature]			V	
<i>[Signature]</i>	[Signature]			V	
<i>[Signature]</i>	[Signature]				
<i>[Signature]</i>	[Signature]				
<i>[Signature]</i>	[Signature]				
Chair: <i>[Signature]</i>	KOTT				
Chair: <i>[Signature]</i>					

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 439 (L&C)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCCED - Div of Ins
 Title Insurance Product Regulation Compact RDU _____
 Component _____
 Sponsor Rep. Coghill
 Requester House Labor & 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Rep. Tom Anderson, Chair Phone 465-4939
 Division House Labor & Commerce Committee Date/Time 3/1/06 12:00 AM
 Approved by: Rep. Tom Anderson Date 3/1/2006
 Agency House Labor & Commerce Committee

ALASKA STATE HOUSE OF REPRESENTATIVES

716 W. 4th Ave
Anchorage, AK 99501
Room 610



Phone (907)-269-0265
Fax# (907)-269-0264

Representative Tom Anderson

FACSIMILE

To: Legislative Legal Fax: 2029
From: Josh Applebee Date: 3/1/2006
Re: Amendment to HB 439
CC:

Urgent For Review Please Comment Please Reply Please Recycle

Good Afternoon,

Attached please find the adopted amendment to HB 439 24-LS1513/A.

Please incorporate the amendment and deliver the final to Room 408

Thanks.

Please let me know if you have any questions or if there is anything else you need.

-Josh

465-4954

Adopted
uk

AMENDMENT #1

By: Rokeberg

OFFERED IN THE HOUSE L & C COMMITTEE

BY

TO: HB 439

1 Page 23

2

3 Delete. Lines 17 through 24

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

LEGAL SERVICES

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

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 24, 2000

SUBJECT: Issues raised by draft bill for Interstate Insurance Product Regulation Commission (Work Order No. 24-LS1513A)

TO: Representative John Coghill
Attn: Willow Olson

FROM: Dennis C. Bailey *Deb*
Legislative Counsel

This memo accompanies a draft bill per your request.

Although the compact has been adopted in many states, in Alaska the provisions allowing the Interstate Commission to adopt rules and providing that those rules are binding on the compacting states may amount to an unconstitutional delegation by the legislature of its law making powers. See Art. IV and Art. XVI, sec 2.

In the Alaska case, *Northern Lights Motel v. Sweaney*, 561 P.2d 1176 (Alaska 1977), reh. den. 563 P.2d 256, the Alaska Supreme Court considered whether adoption of the Uniform Building Code including "all future amendments thereto" was an unconstitutional delegation of power to a private, nongovernmental organization. The court avoided deciding the case on constitutional grounds, but discussed the delegation issue, labeling the delegation issue "a serious one." *Northern Lights* at 561 P.2d 1181. The court expressed distress that when amendments may be adopted by the private group, the public does not receive notice, nor do they have the opportunity to comment on or criticize the amendments as it does when they are adopted by the legislature or under the Alaska Administrative Procedure Act. *Id.* The court also noted that "the non-delegation doctrine is virtually dead in the federal courts. State courts, adhere to this doctrine though not uniformly." *Id.*, n.4. The current compact may be criticized because of the binding effect of the methods and criteria for filing and approving insurance policies established by the compact outside the Alaska legislative or administrative process. It seems to compare, to some degree, with the objections the Supreme Court expressed with the mandatory adoption of amendments to building codes.

The compact differs somewhat from provisions causing concern in the *Northern Lights*. It operates parallel to the state program. Insurers can continue to file and receive approval of policies under state law. Art. X, sec. 1, p. 17. The compact provides for written notice to the relevant state legislative committee of its intention to adopt the Uniform Standard. Art. VII, sec. 2. The state can opt out of a uniform standard by legislation or regulation. Art. VII, sec. 4, p. 13.

Representative John Coghill
January 24, 2006
Page 2

It is difficult to predict how the Alaska courts would rule on this issue if challenged.

If I may be of further assistance, please advise.

DCB:med
06-053.med

Enclosure

AMENDMENT

OFFERED IN THE HOUSE L & C COMMITTEE

BY

TO: HB 439

1 Page 23

2

3 Delete: Lines 17 through 24

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

LEGAL SERVICES

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

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 1, 2006

SUBJECT: Amendment to HB 439 (Work Order No. 24-LS1513VA.1)

TO: Representative John Coghill
Attn: Rynniva Moss

FROM: Dennis C. Bailey *DCB*
Legislative Counsel

Enclosed, please find the amendment you requested.

In my judgment, the amendment seems unnecessary since the boundaries of the compact to affect chapters AS 21.45 (relating to life insurance and annuities) and AS 21.51 (relating to health insurance policies) are already in place under the current language. In other words, if the Compact applies only to "disability and long term care products" it would not affect AS 21.45 and AS 21.51, even under the existing language in HB 439.

Based on your conclusion that the Compact does not affect chapters AS 21.45 and AS 21.51, you may want to consider taking your amendment one step further and eliminate bill sections 2 and 3 entirely.

If I may be of further assistance, please advise.

DCB:med
06-177.med

Enclosure

ALASKA STATE HOUSE OF REPRESENTATIVES



Contact:

Interim Address:

3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

HB 439 Sectional Analysis

Section 1. Adopts the Interstate Insurance Product Regulation Compact.

By adopting the compact the state enters into an agreement with other states to develop uniform standards for insurance policies, provide a central clearinghouse for review and approval of insurance policy forms and to coordinate regulatory resources between state insurance departments. Section 1 includes the compact wording.

The compact:

Article I, sets out the purpose of the compact.

- (1) Promoting and protecting the interests of consumers of life insurance, disability income and long term care products.
- (2) Developing uniform standards.
- (3) Establishing a central clearinghouse for insurance product review.
- (4) Giving regulatory approval to insurance products and advertisements.
- (5) Improving coordination and expertise among members.
- (6) To create the Interstate Product Regulation Commission.
- (7) To perform related functions consistent with State regulation of the business of insurance.

Article II, is the definitions section.

Article III, establishes the Interstate Product Regulation Commission and venue.

Article IV, sets out the powers of the Interstate Product Regulation Commission.

Article V, sets out the organization of the Interstate Product Regulation Commission.

Article VI, sets out participation in and scheduling of meetings of the Interstate Product Regulation Commission.

Article VII, sets out the rules and operating procedures: rulemaking functions of the Interstate Product Regulation Commission opting out of uniform standards.

Article VIII, provides for management of Interstate Product Regulation Commission records and enforcement of commission rules.

Article IX, sets out how disputes will be resolved.

Article X, provides for insurers to make filings with the Interstate Product Regulation Commission.

Article XI, provides an appeal procedure for disapproved filings.

Article XII, Sets out how the Interstate Product Regulation Commission will be financed and conduct their financial business.

Article XIII, Defines when the compact and how the compact becomes effective.

Article XIV, covers withdrawal, default and termination by members.

Article XV, is the severability section.

Article XVI, covers the binding effect of the compact and enforcement of other laws.

Section 2. Amends AS 21.45.010 by adding subsection (b) which allows AS 21.42.700 (Interstate Compact) to supersede.

Section 3. Amends AS 21.51.010 by adding a new subsection (b) which allows AS 21.42.700 (Interstate Compact) to supersede.

Section 4. Amends AS 21.53.010 to approve sale and advertising of products in Alaska that have been approved by and comply with the Interstate Compact under AS 21.42.700.

ALASKA STATE HOUSE OF REPRESENTATIVES

Interim Address:

3340 Badger Road, Suite 290
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4721



Session Contact:
(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

HB 439 SPONSOR STATEMENT

Interstate Insurance Product Regulation Act

This bill adds Alaska to the many other states that have already joined together in the interstate Insurance Product Regulation Act. Life insurance, annuities, disability income, and long term care products for the most part must be approved by each state before they are marketed. In addition the states have differing requirements for the structure of these products, so products must be revised to meet each individual state's requirements before they are approved for sale. Consequently, it is expensive and time consuming to market new insurance policies or products as compared to competitors in the financial services marketplace who are federally regulated.

House Bill 439 would enhance state regulation of insurance by creating a Commission governed collectively by the states that would serve as a single point of filing for specified insurance products, and that would establish uniform, national standards for those products. Such a system would benefit consumers and state government as well as the insurers. Consumers will benefit from strong, uniform national product standards. The quality of product review will be enhanced as experienced staff will review the filings, thereby enabling regulators to devote more time and resources to monitoring for problems in the marketplace. The public will have more timely access to innovative insurance products. Importantly the state retains the right to opt out of certain adopted standards if a need is determined.

ALASKA STATE HOUSE OF REPRESENTATIVES



Contact:

Interim Address:

**3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271**

Session

**(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204**

REPRESENTATIVE JOHN COGHILL

HB 439 - Insurance Product Regulation Compact

SECTIONAL

Section 1.

Adopts the Interstate Insurance Product Regulation Compact

By adopting the compact the state enters into an agreement with other states to develop uniform standards for insurance policies, provide a central clearinghouse for review and approval of insurance policy forms and to coordinate regulatory resources between state insurance departments. Section 1 includes the compact wording.

Section 2.

Amends AS 21.45.010 to allow AS 21.42.700 (Interstate Compact) to supersede.

Section 3:

Amends AS 21.45.010 to allow AS 21.42.700 (Interstate Compact) to supersede.

Section 4:

Amends AS 21.53.010 to extend sale and advertising of products in Alaska that have been approved by and comply with the Interstate Compact.

HB

445

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 445
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Alternative Energy Grant Fund RDU Alaska Energy Authority (453)
 Component AEA Rural Energy Operations
 Sponsor Thomas, Elkins
 Requester Labor and 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						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	31,386.7	30,912.4	30,985.5	30,839.5	31,605.9	31,313.9
Miscellaneous						
TOTAL OPERATING	31,386.7	30,912.4	30,985.5	30,839.5	31,605.9	31,313.9

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
New: Alternative Energy Grant Fund	31,386.7	30,912.4	30,985.5	30,839.5	31,605.9	31,313.9
TOTAL	31,386.7	30,912.4	30,985.5	30,839.5	31,605.9	31,313.9

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
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes an Alternative Energy Grant Fund and directs Alaska Energy Authority to award alternative energy grants from the fund. A single grant may not exceed more than \$20 million, but more than one grant may be awarded to a particular energy project. The Department of Revenue provided estimates of the amount of funds that would be available for grants.

AEA currently awards and manages grants, and anticipates no fiscal impact to awarding additional grants from this fund.

Prepared by: Sara Fisher-Goad, Financial Analyst Phone 907-269-4623
 Division Alaska Energy Authority Date/Time 3/8/06 12:16 PM
 Approved by: William C. Noll, Commissioner Date 3/6/2006
 Agency Commerce, Community, and Economic Development

24-LS1311L
Cook
2/24/06

CS FOR HOUSE BILL NO. 445()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES THOMAS, Elkins

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to the alternative energy grant fund and to alternative energy grants."**

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

3 *** Section 1.** AS 42.45 is amended by adding a new section to read:

4 **Sec. 42.45.045. Alternative energy grant fund.** (a) The alternative energy
5 grant fund is established as a separate fund in the authority. At the end of each
6 calendar year, if the balance in the fund is less than \$250,000,000, the Department of
7 Revenue shall calculate an amount equal to 10 cents for each barrel of crude oil
8 produced in the state during that year while the average West Coast prevailing value
9 for crude oil was \$35 a barrel or higher and notify the governor and the legislature of
10 that amount. The legislature may appropriate the amount calculated by the Department
11 of Revenue to the alternative energy grant fund together with any income earned on
12 money in the fund. Nothing in this subsection creates a dedicated fund.

13 (b) The authority may use money in the alternative energy grant fund to fund
14 new or previously awarded existing grants to electric utilities for new or existing
15 alternative energy projects. A grant may not exceed \$20,000,000; however, more than

1 one grant may be awarded for a particular alternative energy project.

2 (c) The authority may grant money only for an alternative energy project that
3 the authority determines is economically viable and that will result in reduced costs for
4 consumers of the services of the electric utility. To qualify for a grant, the electric
5 utility must provide from other sources a match amount for the alternative energy
6 project that is equal to 25 percent of the grant amount. In awarding grants, the
7 authority shall give priority ~~to~~ alternative energy projects located in areas where fossil
8 fuel costs are higher than in other areas of the state.

9 (d) For purposes of this section,

10 (1) "alternative energy project" means a system that provides a source
11 of thermal, mechanical, or electrical energy that is not dependent on a fossil fuel other
12 than natural gas for the supply of energy;

13 (2) "electric utility" means a corporation, whether public, cooperative,
14 or otherwise, company, individual, or association of individuals, their lessees, trustees,
15 or receivers appointed by a court, that owns, operates, manages, or controls a plant or
16 system for furnishing, by generation, transmission, or distribution, electrical service to
17 the public for compensation.

AEA Update: ALTERNATIVE ENERGY



Alaska Energy Authority (AEA) Update

February 2006

Displacing diesel with alternatives

AEA's Alternative Energy and Energy Efficiency programs promote:

- Use of renewable energy resources and local sources of coal and natural gas as alternatives to diesel-based power, heat, and fuel production.
- Measures to improve the efficiency of energy production and end use.

Currently, AEA manages or funds 47 projects with state and federal funding totaling \$21.9 million in the areas of hydroelectric, wind, biomass, transmission and distribution, geothermal, diesel generation efficiency, and energy conservation. By displacing diesel fuel, projects also seek to lower the cost of power and heat to Alas-

kan communities while maintaining system safety and reliability.

AEA publishes the biennial Alternative Energy and Energy Efficiency Assistance Plan describing available funding, funding AEA plans to request, types of assistance that AEA provides or plans to provide, and criteria for allocating funds.

Project highlight: HYDROELECTRIC

Prince of Wales Island - Alaska Power and Telephone Co. recently completed the 2 MW South Fork Hydroelectric Project with grant and loan funding under AEA's **Energy Cost Reduction RFP**. The \$3.97 million project is expected to **displace 536,000 gallons** of diesel fuel annually, used to provide power to **Craig, Klawock, Viking Lumber sawmill, Thorne Bay, Kasaan, Hollis and Hydaburg.**



South Fork Hydro - water diversion construction in late 2005.

Project highlight: RETROFITS

Ruby - The Merrelaine A. Kangas school, home of the Ruby Ravens, was retrofitted with more efficient compact fluorescent (T8) lighting by AEA in the summer of 2003.

saved over \$6,000 on electricity in the current year.



The Principal, Tim Stathis, estimated that the school

Asked what the savings were used for, he replied

that the school was able to send two honor roll students on an otherwise unaffordable field trip. The school was also able to bring in a career counselor for the students. Besides the savings and direct student benefits,

(Continued on page 3)

akenergyauthority.org

Inside this issue:

- Project highlight: HYDROELECTRIC 11
- Project highlight: RETROFITS 1
- FUNDING: Energy cost reduction, loans and grants 2
- Project highlight: BIOMASS 2
- WIND Mapping 3
- Project highlight: HEAT RECOVERY 3
- Project highlight: GEOTHERMAL 3
- AEA's Energy Group - Spotlighting

Hydroelectric power is one of



Alaska's most attractive alternative energy options. AEA owns **Bradley Lake** and **Larsen Bay** hydro projects, and is developing or upgrading hydro projects in **Atka**, **Akutan**, **King Cove**, and **Pelican**. AEA is investigating hydro potential in **Elfin Cove**, **Chitina** and assisting in **Gustavus**.

"Phantom" energy costs real money

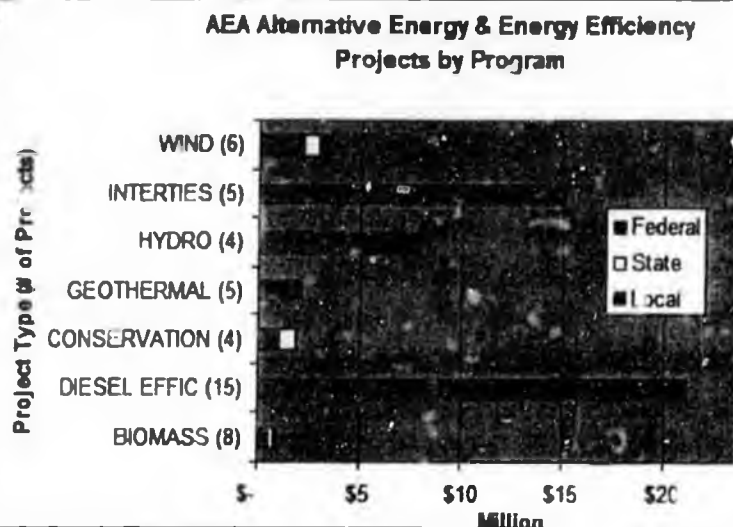
Many idle electronics, TVs, VCRs, DVD and CD players, cordless phones and microwaves, use energy even when switched off -- to keep display clocks lit and memory chips and remote controls working.

Nationally, these energy "vampires" use 5% of our domestic energy and cost consumers more than \$3 billion annually.

"Sleep" features that power down equipment and electronic devices that are turned on but not in use can save households up to \$70 annually.

Energy cost reduction loans and grants

AEA's **Energy Cost Reduction (ECR)** program offers opportunity for entities to apply for low interest loan and grant financing. A new ECR solicitation is expected in early 2006.



End use efficiency activities

The **Alaska Rural Energy Plan** identifies end use efficiency and widespread opportunities for reducing costs of power and heat.

AEA focuses its end use efficiency activities on larger facilities such as schools, community clinics, buildings and water treatment plants.

AEA has conducted state and federally-funded energy audits in **490 schools** and other facilities in **143 rural communities** over the last five years under the **Re-**

build America Program. Audits identify measures that can save an estimated \$2.3 million per year over the next decade at a one-time cost of \$4.1 million.

AEA is currently supporting lighting and other cost-effective upgrades in **55 schools** and other facilities in **17 communities**. Funding for **10 additional communities** to be completed in FY07 is requested.

AEA also supports the Alaska DOT/PF's **Facilities**

Energy Efficiency Program, projected to save the state \$3.4 million in utility costs over ten years in **eight facilities**. In 2006, **16 more facilities** may be added.

In 2005, AEA solicited proposals offering utilities and communities engineering assistance for power generation and end use efficiency upgrades.

All **14 communities** that applied were awarded funding!

Project highlight: BIOMASS

City of Craig – Funded by AEA, the **USDOE Regional Biomass Energy** partnership, and the **US Forest Service**, the **City of Craig** is in the design stage for a planned wood-fired district heating system supplying two schools and the City pool facility. The clean-burning automated chip-fired system is expected to **annually displace 39,000 gallons of propane** and **15,000 gallons of fuel oil** using local sawmill residues.

AEA and its partners are soliciting requests to assess feasibility of other wood-fired facilities in Alaska. See www.akenergyauthority.org for more details and an application.

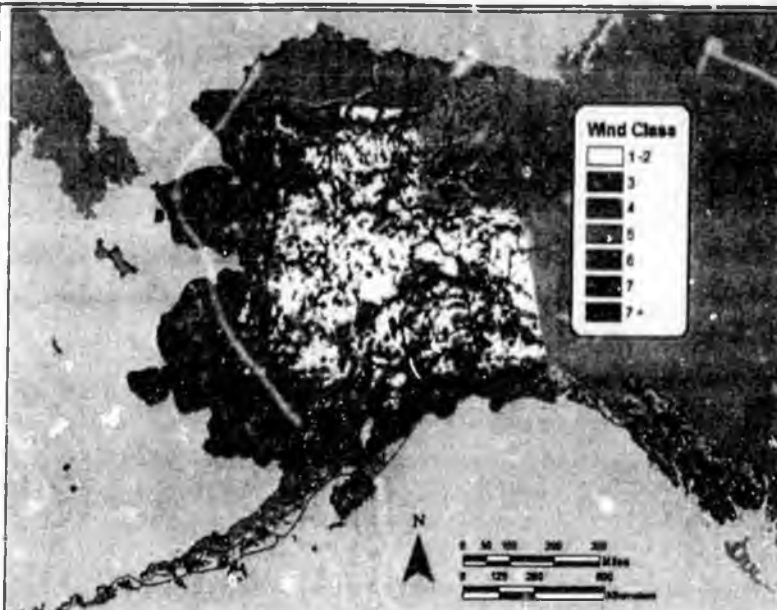
Opportunity might be in the WIND

Wind Energy Construction RFP

NEW! AEA's wind energy development initiative will provide approximately **\$3,000,000** for construction of wind generation systems in rural Alaska through a competitive solicitation. Federal funds will be matched with state capital funds and local contributions. The first Request for Proposals (RFP) is expected to be issued this February.

Anemometer Loan Program

NOW! Over **35 communities** are participating in AEA's wind resource monitoring program to assess the viability of wind energy in their power systems.



Go onl'ne to see AEA's high resolution wind map, Anemometer Loan Program details, wind resource reports and more! For wind in Alaska go to: www.akenergyauthority.org

Project highlight: HEAT RECOVERY

Certificate of Construction Completion



Bulk Fuel Storage and
Power Plant Upgrades

Pedro Bay

Pedro Bay Village Council



Pedro Bay - Lake and Peninsula Borough School District is enjoying the heat recovery rewards from the recently completed bulk fuel storage and power plant upgrades in **Pedro Bay**. Commissioned last summer, the AEA project included an expansion of the school powerhouse to meet the entire community's needs and an agreement between the District and the Pedro Bay Village Council to provide heat from the new powerhouse to the school. The District previously had a heat recovery system, but it was only from the school's powerhouse, so there was not enough heat to minimize fuel consumption at the school. Based on fuel data from the District, **heating fuel consumption at the school has decreased by approximately 80%** since the new systems were installed. At the 2005 price of \$2.72/gallon, the District will save over **\$10,000 in fuel costs annually**.

(Continued from page 1)

Project highlight: RETROFITS light the Ruby gym

"the gym lighting is phenomenal" according to principal Stathis. "We have been able to use it with the minimal lighting levels for lunch and other activities. Full lighting during activities such as games, assemblies and school photographs is easy to achieve, as there is no 'warm up' time in turning lights on. This also allows us to turn lights off completely when the gym is not in use."

Don Honea, the maintenance man for the school, said he felt the lighting upgrade had been a major improvement. The cages for the gym fixtures seemed to be quite substantial and had already been 'well tested' by the students. He thought the new lamps were better and he had not needed to replace any yet. Teachers and staff both commented on the improvements in lighting levels. Ronda McCarty, the administrative assistant, said the lights were better and brighter and Holly, the Kindergarten teacher, said she often uses a quarter of the lights she did before.



March 6, 2006

Chairman and Members
House Labor and Commerce Committee

Re: Support for House Bill No. 445

Honorable Chairman and Committee Members,

My name is Meera Kohler. I am the President and CEO of Alaska Village Electric Cooperative – an electric utility serving 52 villages in rural Alaska, representing more than 40% of Alaska's village population and with some of the highest electric rates (as high as 58 cents per kwh) in the state.

AVEC has been actively engaged in developing alternative energy resources (primarily wind generation) in its communities in an effort to reduce the crippling grip that petroleum fuels currently holds over these cash-strapped economies. We have partnered with Kotzebue Electric Association in a demonstration project in Wales and have a working wind plot (four machines totaling 260 kw) in Selawik. We are also currently building wind generation (300 kw in each community) in Toksook Bay and Kasigluk and expect these projects to benefit three linked communities – Tununak, Nightmute and Nunapitchuk. Additional projects are planned for Gambell, Savoonga, Chevak and Hooper Bay.

As I am sure you are aware, alternative energy sources are extremely expensive to develop – typically four to twenty times (the latter in the case of hydro power) the cost of conventional diesel generation. We have been fortunate to receive Denali Commission funding to assist in our recent wind projects but funding for the Commission in future years is less certain as pressures mount from other domestic needs. Our Congressional delegation is also looking toward the state to develop and fund these critical systems.

HB 445, especially in conjunction with HB 335 and SB 270, are landmark pieces of legislation that will establish state support for alternative energy sources and funding mechanisms for them. AVEC strongly supports the concept of HB 445 and pledges its efforts to help in refining this bill so that it can deliver the highest possible benefits to Alaskans throughout the state.

Sincerely,

A handwritten signature in black ink, appearing to read "Meera Kohler".

Meera Kohler
President & CEO