

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SL&C 12602

MAKED
10-08-07



STATE OF ALASKA
OFFICE OF THE GOVERNOR
P.O. Box 110001, Juneau, AK 99811-0001
Phone: (907) 465-3500 Fax: (907) 465-3532

BOARDS AND COMMISSIONS APPLICATION FORM

INSTRUCTIONS

A separate application is required for each position for which you apply. Complete and specific answers will aid in rapid and accurate processing of your resume. Please type or print legibly in ink. Forward to the above address. Be sure your answers are true. A willfully false answer may result in your disqualification or removal from office if you are appointed.

Board or Commission and seat for which I am applying: Workers Comp. (Labor)
(For example, Board of Agricultural Public Safety)

Please list any other State Boards or Commissions on which you currently or previously have served:

Name: Howard A. (Tony) Hansen
Mailing Address: 345 Luther Ave.
Residence Address: Same
City, State and Zip Code: Wasilla, Alaska 99654
Home or Message Telephone: 907-373-2483 Business Telephone: 907-561-5288 x126
Fax Number: 907-563-4571 Cell Phone: 907-242-6250
Email address: thansen@iuop.302.org

AS 39-05-100 requires that a person appointed to a state board or commission be a registered voter prior to the last general election:

Are you a registered voter: YES NO Voter Registration Number (Optional): _____

Social Security Number (Optional, required if appointed for travel reimbursement etc.): _____

Have you ever been convicted of a misdemeanor within the past five years or a felony within the past ten years?
YES NO If "YES", explain the circumstances on a separate sheet of paper and attach it to this application. A conviction is not necessarily grounds for disqualification. The number of convictions, nature, recency, and relationship to the board position applied for, will be evaluated and a determination will be made after a review of all relevant facts.

CONFLICTS OF INTEREST: Certain boards and commissions require full disclosure of personal financial data under AS 39.50.010. If required for the board or commission for which you are applying, are you willing to do so?
YES NO

Could you or any member of your family be affected financially by decisions to be made by the board or commission for which you have applied? YES NO

If "YES", explain:

316 Luther Avenue
Wadala, Alaska 99764-3500

Phone 907-875-3483 ext 607-
355 2683
E-mail: h.hansen@mla.alaska.net

Howard A. (Tony) Hansen

Education

1988-1970

Silverton Union High School

Silverton, Oregon

1970-1972

Palmer High School

Palmer, Alaska

G.E.D. State of Alaska 1972

Work experience

2001- present I.U.O.E. Local 302 Anchorage, Alaska

District Six Representative

Started as Dispatcher then moved to Field Representative. Currently in charge of Union Business for Local 302 in South Central Alaska.

1998-2001

I.U.O.E. Job Corp Training

Washington, DC

Heavy Equipment Instructor

Responsible for training of Job Corp Students in the Heavy Equipment Vocation at The Alaska Job Corp Center. Other duties include daily interaction with staff at AKJCC, and filing and maintaining student data with the Department of Labor and helping with student job placements. Also responsible for the repair and maintenance of equipment used in student training.

1997-1998 (Winter Months Only) House of Harley-Davidson, Anchorage

Motorcycle Sales Manager

- Sales Manager at Harley-Davidson Dealership. Duties included overseeing sales staff as well as ordering, tracking and setting up sales and delivery of new motorcycles. Also assisted customers with insurance and financing as needed.

1974-1998

I. U. O. E. Local 302 Heavy Equipment Operator

Statewide

Heavy Equipment Operator

- Heavy Equipment Operator on various building sites, runway, pit work and highway construction through out the state of Alaska. Past employers include Harmon Bros. Construction, Alaska General Construction, Northwestern Construction, Frontier Construction, Baugh Construction and Engineering, Kiewit Pacific, Roger Hinkel Construction and Quality Asphalt Paving.

References

Steve Anderson	I.U.O.E. / Retired	907-345-1973
Tom Nelson	AK. Dept. of Labor	907-269-4801/ 907-244-7722
David Erickson	Dispatcher/ I.U.O.E.	907-561-5268

TRAINING AND EXPERIENCE (If resume attached, it is not necessary to complete items A-D)

- A. List any professional licenses, certifications, or registrations and dates obtained that may be used as qualifying criteria:

- B. List both formal and informal education and training experience: (Use additional paper if necessary).

- C. List any community service, municipal government, and state positions held, and any awards received. Include both compensated and uncompensated positions (such as president of a service organization or a mayor). Include length of time served.

- D. Employment work history - paid, unpaid or voluntary: (Use additional paper if necessary).

The Office of the Governor and the State of Alaska have an Affirmative Action Equal Employment Opportunity Program. To assist in the program, you are asked to voluntarily answer the following questions to provide the information necessary for reporting purposes. Under State and Federal law, the information you provide will not be used to illegally discriminate against you.

DATE OF BIRTH: Sept. 23, 1954 SEX: FEMALE _____ MALE

ETHNICITY:
 Alaska Native American Indian _____ Asian or Pacific Islander _____ Black _____ Hispanic _____ White

MILITARY SERVICE (if applicable, give dates): _____

CERTIFICATION: I swear the information I have entered on this form is true to the best of my knowledge. I understand that if I deliberately conceal or enter false information on the form my application may be rejected, I may be removed from the list of eligible candidates, or I may be removed from the position. I agree that the Office of the Governor may contact present or former employees or other persons who know me to obtain an additional information about my skills and abilities. I understand that the information on this application is public information and may be released through a legal request for such information.

Signature (in ink) [Signature] Date 10-1-07

Please attach a current resume with your application.

If appointed, a press release will be issued announcing your appointment pending the completion of the appointment process with the Governor's office. Please supply our office with the following information that will be included in the press release.

(Name): Tony Hansen (Age): 53 of (Hometown): Wasilla, AK
 is (Job title/Place of employment): Distric 6 Rep. / Operating Engineers Local 302
 (Name) holds (Listing of earned degrees like bachelor's, master's, etc.): _____

(Or list relevant experience to the position you are being appointed to)

Examples:

John A. Doe, 38 of Soldotna, is Director of T-Shirts & Co. Doe holds a bachelor's degree in business administration from X University and a master's degree in communications from X University.

John A. Doe, 38 of Palmer, is the owner and operator of Doe and Associates, Inc. Doe previously served as division manager at X, Inc. Doe is a certified personnel consultant.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
P.O. Box 110001, Juneau, AK 99811-0001
Phone: (907) 465-3500 Fax: (907) 465-3532

BOARDS AND COMMISSIONS APPLICATION FORM

INSTRUCTIONS

A separate application is required for each position for which you apply. Complete and specific answers will aid in rapid and accurate processing of your resume. Please type or print legibly in ink. Forward to the above address. Do not put answers on the back. A willfully false answer may result in your disqualification or removal from office if you are appointed.

Board or Commission unit seat for which I am applying: Workers Compensation Board - Labor
(For example, Board of Agriculture, public seat)

Please list any other State Boards or Commissions on which you currently or previously have served:

Name: MICHAEL J. NOTAR
Mailing Address: 813 W. 17th St.
Residence Address: 9350 Northland St.
City, State and Zip Code: Juneau, AK 99801
Home or Message Telephone: (907) 789-1555 Business Telephone: (907) 586-3050
Fax Number: (907) 586-9614 Cell Phone: _____
Email address: ibewjino@alaska.net

AS 39.05.100 requires that a person appointed to a state board or commission be a registered voter prior to the last general election:

Are you a registered voter: YES NO _____ Voter Registration Number (Optional): 60578176

Social Security Number (Optional, require if appointed for long-term employment): _____

Have you ever been convicted of a misdemeanor within the past five years or a felony within the past ten years?

YES _____ NO If "YES", explain the circumstances on a separate sheet of paper and attach it to this application. A conviction is not necessarily grounds for disqualification. The number of convictions, nature, recency, and relationship to the board position applied for, will be evaluated and a determination will be made after a review of all relevant facts.

CONFLICTS OF INTEREST: Certain boards and commissions require full disclosure of personal financial data under AS 39.05.06 (U). If required for the board or commission for which you are applying, are you willing to do so?
YES NO _____

Could you or any member of your family be affected financially by decisions to be made by the board or commission for which you have applied? YES _____ NO

If "YES", explain:

TRAINING AND EXPERIENCE: (If resume attached, it is not necessary to complete items A-D)

- A. List any professional licenses, certifications, or registrations and dates obtained that may be used as qualifying criteria:
- B. List both formal and informal education and training experiences: (Use additional paper if necessary).
- C. List any community service, municipal government, and state positions held, and any awards received. Include both compensated and uncompensated positions (such as president of a service organization or a mayor). Include length of time served.
- D. Employment work history - paid, unpaid or volunteer. (Use additional paper if necessary).

The Office of the Governor and the State of Alaska have an Affirmative Action Equal Employment Opportunity Program. To assist in the program, you are asked to voluntarily answer the following questions to provide the information necessary for reporting purposes. Under State and Federal law, the information you provide will not be used to illegally discriminate against you.

DATE OF BIRTH: 12/05/1951 SEX: FEMALE _____ MALE X

ETHNICITY:
 Alaska Native _____ American Indian _____ Asian or Pacific Islander _____ Black _____ Hispanic _____ White X

MILITARY SERVICE (if applicable, give details): _____

CERTIFICATION: I swear the information I have entered on this form is true to the best of my knowledge. I understand that if I deliberately conceal or enter false information on the form my application may be rejected, I may be removed from the list of eligible candidates, or I may be removed from the position. I agree that the Office of the Governor may contact present or former employees or other persons who know me to obtain an additional information about my skills and abilities. I understand that the information on this application is public information and may be released through a legal request for such information.

Signature (In Ink): *[Signature]* Date: 10-1-07

Please attach a current resume with your application.

Mike Notar

819 West 12th St.
Juneau, AK 99801
(907) 586-3050 Work
(907) 789-1555 Home
email: ibewjno@alaska.net

October 1, 2007

Office of the Governor
Boards & Commissions
PO Box 11000
Juneau, AK 99811-0001

Dear Office of the Governor:

Thank you for allowing me the opportunity to express my desire to serve the State of Alaska on the Alaska Workers Compensation Board.

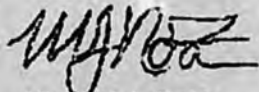
My name is Mike Notar and I am a lifelong Alaskan resident, born in Juneau in 1951. I was raised and still reside in Juneau. I am currently legally separated, and have two sons, Jeff and Jake Notar, ages 19 and 16. I have been the Assistant Business Manager of International Brotherhood of Electrical Workers (IBEW), Local Union 1547 in Juneau since 1995.

Prior to this, I was employed by Pacific Telecom, Inc. (PTI Communications) as a Communications Technician for sixteen years having entered the Alaska Joint Electrical Apprenticeship & Training Trust (AJEA&TT) as an electrical apprentice registered with the U.S. Department of Labor, Bureau of Apprenticeship Training in 1977. My complete resume is attached.

I am interested in serving the State because I am concerned about, and interested in, Workers Compensation issues and the work that the Board performs. I understand and want to contribute to the system that provides injured workers with medical care and cash wages during their times of disablement or illness.

I appreciate your time and consideration regarding this appointment.

Sincerely,



Michael J. Notar

124 First Street
Juneau, AK 99801

Phone: (907) 586-3880
Fax: (907) 585-8814
E-mail: dan@jps.com

Mike Notar

Work experience:

1971 - 1975 State of Alaska Juneau, AK
Engineering Technician
Construction and pre-construction road surveying in S.E. Alaska.

1975 - 1978 Several Private Engineering Firms Juneau, AK
Engineering Technician
Construction and pre-construction land and road surveying in S.E. Alaska.

1978 - 1979 Several Electrical Construction Firms Juneau, AK
Inside Wireman Apprentice
Residential, Commercial & Industrial electrical construction and repair from Prudoe Bay to Prince of Wales Island.

1979 - 1995 Pacific Telcom, Inc. Juneau, AK
Communications Technician
Telephone Utility work both inside and outside, providing communications to communities around S.E Alaska.

1995 - Present IBEW, Local 1547 Juneau, AK
Assistant Business Manager
Represent electrical and communications workers in northern S.E. Alaska. Oversees Inside, Outside and Telephone apprentices, provide employment and training opportunities in electrical and communications industry.

Education:

1969 - 1970 Juneau-Douglas High School Juneau, AK
Graduated
General high school course work with emphasis on math.

1970 - 1970 Peninsula Junior College Port Angeles, WA
Left college, lacked funds
General college curriculum with emphasis on accounting.

1977 Alaska Joint Electrical Apprenticeship School Anchorage, AK
Finished two year course work, Inside Wireman apprenticeship
Electrical theory and hands-on electrical wiring training.

References:

Tom Cashion 3200 Foster Avenue Juneau, AK 99801
Bill Corbus 5801 Tongard Ct. Juneau, AK 99801
Gary Brooks 3333 Denali Street Anchorage, AK 99503

Interests: Golf, Bicycling, Hiking, Youth Sports, Human Resource Development, Family

Douglas L Orcutt

5125 Cambridge Way
Anchorage, AK 99519
(907) 561-0436 home
(907) 266-7800 work
orcutt@gei.net

Goal

To serve as a member of the Alaska Workers' Compensation Board, representing labor on the Southcentral Panel.

Education

Federal Way High School, Federal Way, Washington, 1970; high school diploma

Eastern Washington State College, Cheney, Washington, 1971-1975; Bachelor of Arts in teaching

Employment

Alaska Airlines, Seattle, Washington, 1975-1976; ramp serviceman

Alaska Airlines, Anchorage, Alaska 1976 to present; ramp serviceman, cargo agent, warehouseman at Anchorage International Airport

Member, International Association of Machinists and Aerospace Workers, 1975 to present; shop steward, 1977 to present; shop committee member 1976 to present

Personal

Married 26 years; enjoys swimming, traveling and camping in Alaska with family

References

Available upon request

06-21-07

Marc D. Stemp
607 Old Steese Highway
Suite B-373
Fairbanks, Alaska 99701

June 21, 2007

Office of the Governor
POB 110001
Juneau, Alaska 99811-0001

Attention: Boards and Commissions

Good Morning.

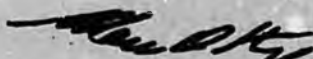
Enclosed is my application and resume' in regards to the current opening on the board of the Alaska Industrial Development and Export Authority (AIDEA).

I am committed to the economic well-being of our state. I have spent the majority of my professional life in rural Alaska. I am keenly aware of the issues of unemployment and lack of infra-structure which in turn has lead to the current environment of economic stagnation.

I believe AIDEA plays a critical role in the lives of all Alaskans. I have the business experience and knowledge to assist the board in its quest to advance the general prosperity of all Alaskans through sound business investments.

Thank you for your consideration.

Very truly yours,



Marc D. Stemp

JUN 25 2007

OFFICE OF THE GOVERNOR
FAIRBANKS, ALASKA



STATE OF ALASKA
 OFFICE OF THE GOVERNOR
 P.O. Box 110001, Juneau, AK 99811-0001
 Phone: (907) 465-3500 Fax: (907) 465-3532

OFFICE OF THE GOVERNOR
 JUN 25 2001

BOARDS AND COMMISSIONS APPLICATION FORM

INSTRUCTIONS

A separate application is required for each position for which you apply. Complete and specific answers will aid in rapid and accurate processing of your resume. Please type or print legibly in ink. Forward to the above address. Be sure your answers are true. A willfully false answer may result in your disqualification or removal from office if you are appointed.

Board or Commission and seat for which I am applying: ALASKA INDUSTRIAL DEVELOPMENT / EXPORT AUTHORITY
 (For example, Board of Agriculture, public seat)

Please list any other State Boards or Commissions on which you currently or previously have served:

Name: MARC D. STEMP
 Mailing Address: 607 Old Steese Hwy, Suite B-373, FBKS, AK 99701
 Residence Address: 935 - 22ND AVE.
 City, State and Zip Code: FAIRBANKS, AK 99701
 Home or Message Telephone: 907-374-0947 Business Telephone: 907-459-2044
 Fax Number: 907-459-2060 Cell Phone: 907-322-5299
 Email address: TAZLINAMARC@YAHOO.COM

AS 39-05-100 requires that a person appointed to a state board or commission be a registered voter prior to the last general election:

Are you a registered voter: YES NO Voter Registration Number (Optional): 00781121

Social Security Number (Optional, required if appointed for travel reimbursement etc.): [REDACTED]

Have you ever been convicted of a misdemeanor within the past five years or a felony within the past ten years?

YES NO If "YES", explain the circumstances on a separate sheet of paper and attach it to this application. A conviction is not necessarily grounds for disqualification. The number of convictions, nature, recentness, and relationship to the board position applied for, will be evaluated and a determination will be made after a review of all relevant facts.

CONFLICTS OF INTEREST: Certain boards and commissions require full disclosure of personal financial data under AS 39.50.010. If required for the board or commission for which you are applying, are you willing to do so?
 YES NO

Could you or any member of your family be affected financially by decisions to be made by the board or commission for which you have applied? YES NO

If "YES", explain:

TRAINING AND EXPERIENCE: (If resume attached, it is not necessary to complete items A-D)

See RESUME!

- A. List any professional licenses, certifications, or registrations and dates obtained that may be used as qualifying criteria:

- B. List both formal and informal education and training experiences: (Use additional paper if necessary).

- C. List any community service, municipal government, and state positions held, and any awards received. Include both compensated and uncompensated positions (such as president of a service organization or a mayor). Include length of time serviced.

- D. Employment work history - paid, unpaid or voluntary: (Use additional paper of necessary).

The Office of the Governor and the State of Alaska have an Affirmative Action Equal Employment Opportunity Program. To assist in the program, you are asked to voluntarily answer the following questions to provide the information necessary for reporting purposes. Under State and Federal law, the information you provide will not be used to illegally discriminate against you.

DATE OF BIRTH: 01-18-1950 SEX: FEMALE _____ MALE X _____

ETHNICITY:
Alaska Native ___ American Indian ___ Asian or Pacific Islander ___ Black ___ Hispanic ___ White X

MILITARY SERVICE (if applicable, give dates): NONE

CERTIFICATION: I swear the information I have entered on this form is true to the best of my knowledge. I understand that if I deliberately conceal or enter false information on the form my application may be rejected, I may be removed from the list of eligible candidates, or I may be removed from the position. I agree that the Office of the Governor may contact present or former employees or other persons who know me to obtain an additional information about my skills and abilities. I understand that the information on this application is public information and may be released through a legal request for such information.

Signature (in ink): [Signature] Date: 0/21/07

Please attach a current resume with your application.

Resume of Marc D. Stamp



Present mailing address:
607 Old Steese Highway
Suite B-373, Fairbanks, AK 99701
Home Phone: 907-374-0947
Email: Tazlinamarc@yahoo.com

Statement:

I have been privileged to work closely with the Alaska Native people; moving their corporations to a point of endowed security. This experience has been formative for not only my career development but also my personal lifestyle commitment.

Education:

B. S. B. in Accounting, with Distinction, University of Minnesota--1972

Career history:

Executive Vice President of Planning, Development & Administration of
Doyon, Limited (2006-present)

President/CEO of Bethel Native Corporation and Subsidiaries (Bethel)
1994-2006 (retired)

Chief Financial Officer of KOOTZNOOWOO, Inc. (Angoon, Juneau)
1993-1994

Chief Financial Officer of Ahtna, Incorporated (Copper Center)
1983-1993

Vice President of Finance/Administration of Executone of Alaska (Anchorage)
1981-1982

Treasurer of Bristol Bay Native Corporation (Dillingham/Anchorage)
1978-1981

Career history: (continued)

Assistant Controller of Tesoro Alaska Petroleum (Anchorage)
1976-1977

Tax accountant with Coopers & Lybrand (Anchorage)
1974-1976

Staff Accountant with Taylor, McCaskill & Company (St. Paul, Minnesota)
1972-1974

Professional Associations:

(retired) Alaska Workers Compensation Appeals Commissioner
(retired) Alaska Workers' Compensation Board Member
(inactive) Emergency Medical Technician I (Bethel Fire Department)
(inactive) Licensed Real Estate Salesperson

Level of US Government Clearance:

Top Secret

Work Experience:

Doyon, Limited:

At the present time, I work with the President/CEO in coordinating the overall strategic planning, quality improvement, and organizational effectiveness of the Corporation and its operating Subsidiaries. In addition, I directly supervise the Administration and Communications Department; Shareholder Records and Relations, as well as the Human Resources Service Center.

Bethel Native Corporation (BNC):

It has been my pleasure and privilege to serve as President and Chief Executive Officer. In May of 2006, I completed my twelve year employment contract and retired. My experience with BNC has been successful and gratifying. For example:

- Sales have increased rapidly. A 441% growth since my start in 1994.
- Net income has averaged an 8.6% Rate of Return.
- Long-term Liabilities have all been paid; the Corporation now has no long-term debt.
- Shareholder's Equity has increased 19%
- Shareholder dividends have been consistently paid. To date, a cumulative \$2.8 million has been disbursed.

- A contentious IRS claim regarding a land loss valuation, was successfully settled via mediation.
- Land issues concerning the City of Bethel as well as Federal Agencies such as the Indian Health Service, Department of the Interior, Bureau of Indian Affairs, and the Bureau of Land Management were all successfully resolved.
- Created the BNC Workers' Academy via Federal Department of Labor funding, to provide training and career counseling to dislocated Alaska Native workers as a result of the salmon industry collapse.
- Established the first Small Business Act, Section 8(a) certification of a minority business within the Bethel, Alaska area. Since that time, three additional subsidiaries along with various joint ventures have all been awarded this certification. This has since lead to substantial economic growth for BNC.
- Selected for three consecutive years by the Alaska Business Monthly magazine as one of the Top Corporate 100 firms in Alaska.

KOOTZNOOWOO, Incorporated:

I served as Chief Financial Officer. My most significant accomplishment was in assisting the CEO and the Board of Directors in establishing the Corporation's first Alaska Native Claims Settlement Act (ANCSA) Settlement Trust. This Trust was funded through the sale of Net Operating Losses (NOL) which required significant review and negotiations with the Internal Revenue Service. The benefit to the individual shareholders is a long-term investment vehicle that will provide annual tax-free dividends.

AHTNA, Incorporated:

I initially served as Controller and was responsible for all of the accounting functions. I later assume the duties of Chief Financial Officer as well as assisting the President and Chief Executive Officer in the operations of the Parent Corporation as well as subsidiaries and joint ventures. My most significant accomplishment during my ten-year tenure was that the Corporation was always profitable and always paid an annual shareholder dividend.

Executone of Alaska:

I was Vice President of Finance and Administration for a start-up telecommunications company. Company sold to an Alaska Native Regional Corporation.

Bristol Bay Native Corporation:

First I was retained as Controller with accounting and reporting responsibilities. Promoted to Treasurer and assisted the President and Chief Executive Officer in financial as well as treasury-related decisions. My most significant contribution was assisting in the purchase of the Anchorage Westward Hotel, for a highly leveraged price of \$20.0 million – which was a significant financial transaction in the 1970's.

Tesoro Alaska Petroleum:

While here I worked as Assistant Controller with budgetary analysis and senior management level reporting function.

Coopers & Lybrand:

I worked in the audit department as well as the tax department.

Taylor, McCaskill & Company:

Performed basic audit functions as a staff auditor.

Hobbies:

Fishing, hunting, and woodworking

Status:

Happily married/excellent health

References:

Michael P. McCormack
District President
Wells Fargo
POB 100600
Anchorage, Alaska 99510
907-265-2990

Commissioner Dave Harbour
Regulatory Commission of Alaska
701 West 8th Avenue, Suite 300
Anchorage, Alaska 99501-3469
907-276-6222

Orie G. Williams, President and Chief Executive Officer
Doyon, Limited
1 Doyon Place, Suite 300
Fairbanks, Alaska 99701
907-459-2004

SB

18



Senator Con Bunde
Senate District P
Alaska State Legislature

Member: Senate State Affairs Committee
Member: Senate Labor & Commerce Committee
Member: Joint Legislative Committee on Ethics

Sponsor Statement
SB 18 Property Foreclosures and Executions

Alaska's statutes on the real property, non judicial foreclosure process are antiquated, sometimes ambiguous and unclear, and therefore, prone to litigation. Senate Bill 18 proposes to clarify the present statutory language, simplify and modernize the foreclosure process. The suggested changes benefit lenders, borrowers and title insurers by bringing clarity, certainty and modernity to the process.

SB 18 would improve many aspects of Title 34 that govern the foreclosure process. Some of the areas of change are:

- Clarification on how proceeds from a foreclosure auction are disbursed
- Assures that foreclosure trustees are fiscally responsible by imposing reasonable bond requirements
- Creates deadlines to deter chilled bidding and unnecessary delays
- Allows trustees to nullify sales when mistakes are made that negatively affect the integrity of the sale
- Sets up procedures to follow involving a deceased borrower
- Creates common-sense rules to govern time and methods for posting the foreclosure properties
- Creates internet publication procedures to help ensure that interested bidders learn of foreclosure auctions
- Defines when one's rights are terminated in the foreclosure process
- Allows acceptance of foreclosure auction bids via email, internet and phone for greater accessibility

Passage of SB 18 would streamline and simplify the foreclosure language in Alaska statutes and provide for a more open, accessible and fair auction process that will benefit borrowers, lenders and title insurers, as well as reduce much unnecessary litigation.

**CS for SB 18 Changes from the "M" version
Now new version "L"**

Office of Senator Bunde 3/19/07

For conformity:

We have struck the word "grantor" in the following sections and inserting the word "trustor" in its place:

Section 4

Section 9 (f) (3) , (g) (1) and (i)

Section 12 (a)

Regarding length of time one publishes on a website ...

Section 1, beginning on line 5....

Now includes language that mandates that the internet publication notice must be published not less than 45 days prior to the sale date, and is required to run for at least 30 days including at least 10 days of the last 15 days prior to the actual sale date

Explanation-keying it to the sale date focuses on the most critical date to get the web exposure-the date of the auction. Requiring a run not less than 30 days allows flexibility for such things as down times where the internet publisher does maintenance, etc. Requiring that the ad run at the end is consistent with getting the sale maximum exposure at the critical sale date, and requiring 10 of the last 15 days allows for the flexibility mentioned above.

Also regarding the internet publication :

In Section 1 (b)(2) it will now read:

"(2) is completely free "to the public for viewing " and does not require a subscription;"

Explanation- otherwise a persuasive person could claim that placing the internet ad had to be at no cost, which certainly was not the intent.

Section 4. (Regarding "actual possession" vs. "occupying").

This was confusing, so we think the following language is better:

AS 34.20.070(c) (2) the successor in interest to the trustor whose interest appears of record or of whose interest the trustee or the beneficiary has actual notice, or who is in actual physical possession of the property; (3) any other person actually in physical possession of ~~or occupying~~ the property...

A typo catch:

In Section 11, (b)(2) page 8, line 1, at the beginning of the underlined language, changes the "or" to "and"

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 19, 2007

SUBJECT: CSSB 18() relating to real property foreclosures, executions, and deeds of trust (Work Order No. 25-LS0153L)

TO: Senator Con Bunde
Attn: Jane Alberts

FROM: *JB*
Theresa Bannister
Legislative Counsel

This memo accompanies a draft of the bill described above.

1. Use of "actual." The requested changes for sec. 09.35.140(b) included the word, "actual," before the sale date in one location. I was not sure whether this was intentional or just for emphasis in describing what you wanted. Were you trying to handle the situation where the sale date is postponed? If yes, then it may be clearer to state that concept in sec. 09.35.140(b), and AS 34.20.080(e) (postponement) may need to be amended to coordinate with that requirement.

2. Addition of "state agency" to sec. 34.20.070(k). I recommend defining "state agency" because there could be a dispute about whether certain entities are state agencies (e.g., the University of Alaska, Alaska Railroad Corporation, and Alaska Housing Finance Corporation, to name a few) for this provision. You may want to search the statutes on the Internet to look at state agency definitions to help you decide whom to cover.

Also, do you want to require that the state agency have an interest in the property? If not, what situations did you have in mind?

If I may be of further assistance, please advise.

TLB:med
07-179.med

Enclosure

25-LS0153L
Bannister
3/19/07

CS FOR SENATE BILL NO. 18()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR BUNDE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to real property foreclosures, executions, and deeds of trust."**

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

3 *** Section 1. AS 09.35.140 is amended by adding new subsections to read:**

4 (b) In addition to the notice required by (a) of this section, notice of the sale of
5 real property on execution shall be given by publishing a notice of the sale on an
6 Internet website for at least 45 days before the date of the sale. The publication must
7 run for at least 30 days, including at least 10 of the last 15 days before the actual date
8 of the sale.

9 (c) To qualify as an Internet website on which notices of sale may be
10 published under (b) of this section, an Internet website must

- 11 (1) be available to any person;
- 12 (2) be completely free to the public for viewing and not require a
- 13 subscription;
- 14 (3) be used primarily to advertise real property under foreclosure;
- 15 (4) have been in continuous operation for more than one year;

1 (5) have a viewership of at least 5,000 different visitors each month
2 that is verified by an independent audit; and

3 (6) have an office in the state and the office has staff that includes a
4 senior management person.

5 * Sec. 2. AS 09.35.142 is amended to read:

6 **Sec. 09.35.142. Action to establish newspaper or Internet website status.** A
7 person who owns a publication may bring an action under AS 22.10.020(g) to
8 establish that the publication is a newspaper of general circulation under
9 AS 09.35.140(a)(2) [AS 09.35.140(2)]. A person who owns an Internet website
10 may bring an action under AS 22.10.020(g) to establish that the Internet website
11 qualifies as an Internet website on which notices of sale may be published under
12 AS 09.35.140(b).

13 * Sec. 3. AS 34.20.070(b) is amended to read:

14 (b) Not less than 30 days after the default and not less than 90 days [THREE
15 MONTHS] before the sale, the trustee shall record in the office of the recorder of the
16 recording district in which the trust property is located a notice of default setting out
17 (1) the name of the trustor, (2) the book and page where the trust deed is recorded or
18 the serial number assigned to the trust deed by the recorder, (3) a description of the
19 trust property, including the property's street address if there is a street address for the
20 property, (4) a statement that a breach of the obligation for which the deed of trust is
21 security has occurred, (5) the nature of the breach, (6) the sum owing on the
22 obligation, (7) the election by the trustee to sell the property to satisfy the obligation,
23 and (8) the date, time, and place of the sale. An inaccuracy in the street address may
24 not be used to set aside a sale if the legal description is correct. At any time up to five
25 days before the sale, if the default has arisen by failure to make payments required by
26 the trust deed, the default may be cured by payment of the sum in default other than
27 the principal that would not then be due if no default had occurred, plus attorney fees
28 or court costs actually incurred by the trustee due to the default. If, under the same
29 trust deed, notice of default under this subsection has been recorded two or more times
30 previously and the default has been cured under this subsection, the trustee may elect
31 to refuse payment and continue the sale.

1 * **Sec. 4. AS 34.20.070(c) is amended to read:**

2 (c) Within 10 days after recording the notice of default, the trustee shall mail a
3 copy of the notice by certified mail to the last known address of each of the following
4 persons or their legal representatives: (1) the trustor [GRANTOR] in the trust deed;
5 (2) the successor in interest to the trustor [GRANTOR] whose interest appears of
6 record or of whose interest the trustee or the beneficiary has actual notice, or who is in
7 actual physical possession of the property; (3) any other person actually in physical
8 possession of [OR OCCUPYING] the property; (4) any person having a lien or
9 interest subsequent to the interest of the trustee in the trust deed, where the lien or
10 interest appears of record or where the trustee or the beneficiary has actual notice of
11 the lien or interest. The notice may be delivered personally instead of by mail.

12 * **Sec. 5. AS 34.20.070 is amended by adding new subsections to read:**

13 (e) In (c) of this section, if the existence of a lien or nonpossessory interest can
14 only be inferred from an inspection of the real property, the person holding the lien or
15 nonpossessory interest is not entitled to notice under this subsection unless the lien or
16 nonpossessory interest appears of record or a written notice of the lien or
17 nonpossessory interest has been given to the beneficiary or trustee before the
18 recording of the notice of default.

19 (f) If the trustee delivers notice personally under (c) of this section to the
20 property or to an occupant of the property, the trustee may, notwithstanding (c) of this
21 section, deliver the notice up to 20 days after the notice of default is recorded. If there
22 is not a structure on the property and a person is not present on the property at the time
23 of delivery, the trustee may place the notice on the property, or as close as practicable
24 to the property if

25 (1) there is not a practical road access to the property; or

26 (2) access to the property is restricted by gates or other barriers.

27 (g) If the trustee or other person who delivered notice under (f) of this section
28 signs an affidavit for the delivery, the affidavit is prima facie evidence that the trustee
29 complied with (f) of this section. After one year from the delivery, as evidenced by the
30 affidavit, the trustee is conclusively presumed to have complied with (f) of this section
31 unless, within one year from the delivery, an action has been filed in court to contest

1 the foreclosure based on failing to comply with (f) of this section.

2 (h) If a person who is entitled to receive notice by mail under (c) of this
3 section is known by the beneficiary or trustee to be deceased, the trustee may satisfy
4 the notice requirements of (c) of this section by mailing the notice to the last known
5 address of the deceased person and to the personal representative of the deceased
6 person if the beneficiary or trustee knows that a personal representative has been
7 appointed for the deceased person.

8 (i) If a person who is entitled to receive notice by mail under (c) of this section
9 is known by the beneficiary or trustee to be deceased but the trustee and the
10 beneficiary do not know that a personal representative has been appointed for the
11 deceased person, the trustee may satisfy the notice requirements of (c) of this section
12 by

13 (1) mailing the notice to the heirs and devisees of the deceased person

14 (A) whose names and addresses are known to the beneficiary or
15 trustee; or

16 (B) who have recorded a notice of their interest in the property;

17 and

18 (2) publishing and posting the notice of the foreclosure as provided by
19 law for the sale of real property on execution, except that the notice must be titled "To
20 the Heirs or Devisees of (insert the name of the deceased person)" and include in the
21 body of the notice a list of the names of the persons who are known by the beneficiary
22 or trustee to be the heirs and devisees of the deceased person.

23 (j) If notice is given as required by (h) and (i) of this section, an heir or
24 devisee of the deceased person may not challenge the foreclosure on the ground that
25 the heir or devisee did not receive notice of the sale, unless the heir or devisee
26 challenges the foreclosure on this ground within three months after the sale.

27 (k) A person may bring an action in court to enjoin a foreclosure on real
28 property only if the person is the trustor of the deed of trust under which the real
29 property was foreclosed, a guarantor of the obligation that the real property is
30 securing, a person who has an interest in the real property that has been recorded, a
31 person who has a recorded lien against the real property, an heir to the real property,

1 devisee of the real property, or a state agency.

2 (l) If a person brings an action under (k) of this section to stop a sale of real
3 property, and if the sale is being brought because of a default in the performance of a
4 nonmonetary obligation required by the deed of trust that the real property is securing,
5 the court may impose on the person the conditions that the court determines are
6 appropriate to protect the beneficiary.

7 (m) In this section, "devisee," "heir," and "personal representative" have the
8 meanings given in AS 13.06.050.

9 * Sec. 6. AS 34.20.080(a) is amended to read:

10 (a) The sale authorized in AS 34.20.070 shall be made under the terms and
11 conditions and in the manner set out in the deed of trust. The proceeds from a sale
12 shall be placed in escrow until they are disbursed. However, the sale shall be made

13 (1) at public auction held at the front door of a courthouse of the
14 superior court in the judicial district where the property is located, unless the deed of
15 trust specifically provides that the sale shall be held in a different place, except that a
16 trustee may also accept bids by telephone, the Internet, and electronic mail if the
17 trustee has taken reasonable steps to ensure that the bidding methods using the
18 telephone, the Internet, or electronic mail are fair, accessible, and designed to
19 result in money that is immediately available for disbursement; and

20 (2) after public notice of the time and place of the sale has been given
21 in the manner provided by law for the sale of real property on execution.

22 * Sec. 7. AS 34.20.080(b) is amended to read:

23 (b) The attorney for the trustee or another agent of the trustee may conduct
24 the sale and act in the sale as the auctioneer for the trustee. The trustee may set
25 reasonable rules and conditions for the conduct of the sale. Sale shall be made to
26 the highest and best bidder. The beneficiary under the trust deed may bid at the
27 trustee's sale. Except as provided by (g) of this section, the [THE] trustee shall
28 execute and deliver to the purchaser a deed to the property sold.

29 * Sec. 8. AS 34.20.080(e) is amended to read:

30 (e) The trustee may postpone sale of all or any portion of the property by
31 delivering to the person conducting the sale a written and signed request for the

1 postponement to a stated date and hour. The person conducting the sale shall publicly
2 announce the postponement to the stated date and hour at the time and place originally
3 fixed for the sale. This procedure shall be followed in any succeeding postponement,
4 but the foreclosure may not be postponed for more than 12 months unless a new
5 notice of the sale is given under (a)(2) of this section. A sale may be postponed for
6 up to 12 months from the sale date stated in the notice of default under
7 AS 34.20.070(b) without providing a basis for challenging the validity of the
8 foreclosure process because of the length of time the foreclosure has been
9 pending.

10 * Sec. 9. AS 34.20.080 is amended by adding new subsections to read:

11 (f) After delivery of a deed under (b) of this section, the trustee shall distribute
12 any cash proceeds of the sale in the following order to

13 (1) the beneficiary of the deed of trust being foreclosed until the
14 beneficiary is paid the full amount that is owed under the deed of trust to the
15 beneficiary;

16 (2) the persons who held, at the time of the sale, recorded interests,
17 except easements, in the property, that were subordinate to the foreclosed deed of
18 trust; the distribution under this paragraph shall be made according to the priority of
19 the recorded interest, and a recorded interest with a higher priority shall be satisfied
20 before distribution is made to the recorded interest that is next lower in priority;
21 however, if a person holds a recorded interest that is an assessment, the person is
22 entitled only to the amount of the assessment that was due at the time of the sale; in
23 this paragraph, "recorded interest" means an interest, including a lease, recorded under
24 AS 40.17;

25 (3) the trustor in the trust deed if the trustor is still the owner of the
26 property at the time of the foreclosure sale, but, if the trustor is not still the owner of
27 the property at the time of the foreclosure sale, then to the trustor's successor in
28 interest whose interest appears of record at the time of the foreclosure sale.

29 (g) The trustee may withhold delivery of the deed under (b) of this section for
30 up to five days after the sale. If, during the five days, the trustee determines that the
31 sale should not have proceeded, the trustee may not issue the deed but shall

1 (1) inform the beneficiary, the otherwise successful bidder, and the
2 trustor of the trust deed or the trustor's successor in interest that the sale is rescinded;
3 and

4 (2) return to the otherwise successful bidder money received from the
5 otherwise successful bidder as a bid on the property; return of this money is the
6 otherwise successful bidder's only remedy if the trustee withholds delivery of the deed
7 under (b) of this section.

8 (h) If a trustee rescinds a sale under (g) of this section and the obligation
9 secured by the deed of trust remains in default, the trustee may, at the request of the
10 beneficiary, reschedule the sale for a date that is not less than 45 days after the date of
11 the rescinded sale. Not less than 30 days before the rescheduled sale date, the trustee
12 shall

13 (1) mail notice of the rescheduled sale date by certified mail to the last
14 known address of each of the persons identified by AS 34.20.070(c); and

15 (2) publish and post the notice of the rescheduled sale date as provided
16 by law for the sale of real property on execution.

17 (i) Unless a sale is rescinded under (g) of this section, the sale completely
18 terminates the rights of the trustor of the trust deed in the property.

19 * Sec. 10. AS 34.20.120(a) is amended to read:

20 (a) The trustee under a trust deed upon real property given to secure an
21 obligation to pay money and conferring no duties upon the trustee other than the duties
22 that are incidental to the exercise of the power of sale conferred in the deed may be
23 substituted by recording in the mortgage records of the recording district in which the
24 property is located a substitution executed and acknowledged by

25 (1) all the beneficiaries under the trust deed, or their successors in
26 interest; or

27 (2) the attorneys for all of the beneficiaries or the attorneys for all
28 of the beneficiaries' successors in interest.

29 * Sec. 11. AS 34.20.120(b) is amended to read:

30 (b) The substitution must contain

31 (1) the date of execution of the trust deed;

1 (2) the names of the trustee, trustor, and beneficiary, and, if the
2 substitution is executed by the attorney for the beneficiary or successor in
3 interest to the beneficiary, the name, address, and Alaska Bar Association
4 identification number of the attorney;

5 (3) the book and page where the trust deed is recorded or the serial
6 number assigned to the trust deed by the recorder;

7 (4) the name of the new trustee; and

8 (5) an acknowledgment signed and acknowledged by the trustee
9 named in the trust deed of a receipt of a copy of the substitution, or an affidavit of
10 service of a copy of it.

11 * **Sec. 12.** AS 34.20 is amended by adding a new section to read:

12 **Sec. 34.20.125. Trustee bond required.** (a) Before performing the duties of a
13 trustee under AS 34.20.070 and 34.20.080, a person shall obtain a surety bond in the
14 amount of \$250,000 to protect the trustors and beneficiaries of trust deeds against
15 fraud or defalcation by the trustee in the performance of the duties.

16 (b) The bond required by (a) of this section must be a bond that is terminable
17 at any time by the surety by sending written notice by first class United States mail to
18 the obligee and the principal at the address for each that is last known by the surety.
19 The bond terminates when 30 days have expired after the date the notice is mailed.
20 The surety is not liable for an act or omission of the principal that occurs after the
21 termination. The surety is not liable after the termination for more than the face
22 amount of the bond, regardless of the number of claims made against the bond or the
23 number of years the bond remains in force. A revision of the amount of the bond is not
24 cumulative.

25 (c) Each year, a trustee shall file evidence of the bond with the Department of
26 Commerce, Community, and Economic Development. The Department of Commerce,
27 Community, and Economic Development shall verify that the evidence is satisfactory
28 to indicate the existence of the bond, keep an updated list of trustees who are bonded,
29 and make the evidence and the list available to the public for inspection. The
30 Department of Commerce, Community, and Economic Development may charge the
31 trustee a reasonable fee for verifying the existence of the bond and maintaining the

1 records required by this subsection.

2 (d) The bonding requirements of this section do not apply to

3 (1) a title insurance company authorized under AS 21.66 to transact a
4 title insurance business in this state; or

5 (2) a title insurance limited producer who is licensed as required by
6 AS 21.66.270.

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


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

MEMORANDUM

March 12, 2007

SUBJECT: Sectional summary of CSSB 18() relating to real property foreclosures, executions, and deeds of trust (Work Order No. 25-LS0153\W)

TO: Senator Con Bunde
Attn: Jane Alberts

FROM:  Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Adds a new section to AS 09.35 (execution on property) to require that notice of the sale of real property on execution also be given on an Internet website. Describes the requirements that the Internet website must meet to qualify.

Section 2. Amends AS 09.35.142 to allow an Internet website owner to bring a court action to establish that the website qualifies under AS 09.35.140(b).

Section 3. Amends AS 34.20.070(b) to adjust to 90 days the minimum length of time that must elapse between recording a notice of default on a deed of trust and holding the foreclosure sale. Sets a limit of five days (before a foreclosure sale) when certain defaults on a deed of trust may be cured by a specified payment.

Section 4. Amends AS 34.20.070(c) to require that possession be actual possession where possession is required for certain persons to be entitled to receive a notice of default for foreclosure sale.

Section 5. Adds new subsections to AS 34.20.070 (foreclosure sale by trustee).

Proposed 34.20.070(e) establishes when a person who holds a lien or nonpossessory property interest that can only be inferred from an inspection of the property is entitled to receive a notice of default for a foreclosure sale.

Proposed 34.20.070(f) allows a trustee additional time (after recording) to deliver the notice of default when the trustee delivers the notice personally to the property or to an occupant of the property. Allows the trustee to place the notice on the property or as close as practicable to the property under certain conditions.

Proposed sec. 34.20.070(g) states that an affidavit signed by a trustee or another person who delivered notice personally under sec. 34.20.070(f) is prima facie evidence that the trustee complied with sec. 34.20.070(f). Establishes a conclusive presumption (as evidenced by the affidavit) after one year unless a court action is filed within the year to challenge the foreclosure for failing to comply with sec. 34.20.070(f).

Proposed sec. 34.20.070(h) establishes how a trustee may satisfy the notice requirements for a person known by the trustee to be deceased and for whom the trustee or the deed of trust beneficiary knows a personal representative has been appointed.

Proposed sec. 34.20.070(i) establishes how a trustee may satisfy the notice requirements for a person known by the trustee to be deceased if the trustee and the deed of trust beneficiary do not know that a personal representative has been appointed for the deceased person.

Proposed sec. 34.20.070(j) states that an heir or devisee of a deceased person must challenge a foreclosure sale within three months if alleging non-receipt of notice and if the trustee gave notice as required by (h) - (i).

Proposed sec. 34.20.070(k) describes the persons who may bring a court action to enjoin a foreclosure sale.

Proposed sec. 34.20.070(l) states that when a court injunction action meets certain conditions, a court may impose conditions that it considers appropriate to protect the deed of trust beneficiary.

Proposed sec. 34.20.070(m) defines certain terms for AS 34.20.070.

Section 6. Requires that the proceeds from a foreclosure sale be placed in escrow until disbursed. Allows a trustee to accept foreclosure bids by telephone, the Internet, and electronic mail if certain conditions are met.

Section 7. Allows the attorney or another agent of the trustee to conduct the sale. Allows the trustee to set reasonable rules for the conduct of the sale. Adds language that conforms the deed delivery requirement to the new provision in sec. 34.20.080(g) allowing the trustee to rescind a sale under certain circumstances.

Section 8. Limits the postponement of a foreclosure to not more than 12 months unless a new notice of the sale is given. Establishes that postponement for up to 12 months does not provide a basis for challenging the validity of the foreclosure because of how long the foreclosure has been pending.

Section 9. Adds new subsections to AS 34.20.080 (foreclosure sale).

Proposed sec. 34.20.080(f) indicates how any cash proceeds of the sale are to be distributed after delivery of a deed.

Proposed sec. 34.20.080(g) allows a trustee to withhold delivery of the deed for up to five days, prohibits the trustee from issuing the deed under certain conditions, and describes what the trustee must do when rescinding the sale.

Proposed sec. 34.20.080(h) allows the trustee to reschedule a rescinded sale, establishes a minimum time that must elapse after the rescinded sale before the new sale

may be held, and establishes the notice procedure that the trustee must follow for the rescheduled sale.

Proposed sec. 34.20.080(i) establishes that if a sale is not rescinded it completely terminates the rights of the trust deed grantor in the property.

Section 10. Allows the attorneys for the beneficiaries or their successors in interest to execute and acknowledge the substitution of a trustee for certain trust deeds.

Section 11. Adds a requirement to the contents of a trustee substitution for the situation when the substitution is executed by the attorneys for the beneficiaries or their successors in interest.

Section 12. Adds a new section.

Proposed sec. 34.20.125(a) requires a trustee to provide a surety bond before performing trustee duties under a deed of trust foreclosure.

Proposed sec. 34.20.125(b) requires the bond to be terminable at any time by the surety by complying with certain requirements, indicates when the bond terminates, and indicates that the surety is not liable after the termination for more than the face amount of the bond. States that a revision of the amount of the bond is not cumulative.

Proposed sec. 34.20.125(c) requires a trustee to file evidence of the bond each year with the Department of Commerce, Community, and Economic Development. Requires the department to verify that the evidence is satisfactory, keep an updated list of bonded trustees, and make the evidence and the list available to the public. Allows the department to charge the trustee a reasonable fee for the verification and maintenance of records.

Proposed sec. 34.20.125(d) exempts certain persons from the bonding requirements.

If I may be of further assistance, please advise.

TLB:med

07-167.med

25-LS0153M

Bannister

3/9/07

CS FOR SENATE BILL NO. 18()**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-FIFTH LEGISLATURE - FIRST SESSION****BY****Offered:****Referred:****Sponsor(s): SENATOR BUNDE****A BILL****FOR AN ACT ENTITLED**

1 **"An Act relating to real property foreclosures, executions, and deeds of trust."**

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

3 *** Section 1. AS 09.35.140 is amended by adding a new subsection to read:**

4 (b) In addition to the notice required by (a) of this section, notice of the sale of
5 real property shall be given by publishing a notice of the sale on an Internet website
6 that

7 (1) is available to any person;

8 (2) is completely free and does not require a subscription;

9 (3) is used primarily to advertise real property under foreclosure;

10 (4) has been in continuous operation for more than one year;

11 (5) has a viewership of at least 5,000 different visitors each month that
12 is verified by an independent audit; and

13 (6) has an office in the state and the office has staff that includes a
14 senior management person.

15 *** Sec. 2. AS 09.35.142 is amended to read:**

1 **Sec. 09.35.142. Action to establish newspaper or Internet website status. A**
2 **person who owns a publication may bring an action under AS 22.10.020(g) to**
3 **establish that the publication is a newspaper of general circulation under**
4 **AS 09.35.140(2). A person who owns an Internet website may bring an action**
5 **under AS 22.10.020(g) to establish that the Internet website qualifies as an**
6 **Internet website on which notices of sale may be published under**
7 **AS 09.35.140(b).**

8 * Sec. 3. AS 34.20.070(b) is amended to read:

9 (b) Not less than 30 days after the default and not less than 90 days [THREE
10 MONTHS] before the sale, the trustee shall record in the office of the recorder of the
11 recording district in which the trust property is located a notice of default setting out
12 (1) the name of the trustor, (2) the book and page where the trust deed is recorded or
13 the serial number assigned to the trust deed by the recorder, (3) a description of the
14 trust property, including the property's street address if there is a street address for the
15 property, (4) a statement that a breach of the obligation for which the deed of trust is
16 security has occurred, (5) the nature of the breach, (6) the sum owing on the
17 obligation, (7) the election by the trustee to sell the property to satisfy the obligation,
18 and (8) the date, time, and place of the sale. An inaccuracy in the street address may
19 not be used to set aside a sale if the legal description is correct. At any time up to five
20 days before the sale, if the default has arisen by failure to make payments required by
21 the trust deed, the default may be cured by payment of the sum in default other than
22 the principal that would not then be due if no default had occurred, plus attorney fees
23 or court costs actually incurred by the trustee due to the default. If, under the same
24 trust deed, notice of default under this subsection has been recorded two or more times
25 previously and the default has been cured under this subsection, the trustee may elect
26 to refuse payment and continue the sale.

27 * Sec. 4. AS 34.20.070(c) is amended to read:

28 (c) Within 10 days after recording the notice of default, the trustee shall mail a
29 copy of the notice by certified mail to the last known address of each of the following
30 persons or their legal representatives: (1) the grantor in the trust deed; (2) the
31 successor in interest to the grantor whose interest appears of record or of whose

1 interest the trustee or the beneficiary has actual notice, or who is in actual possession
2 of the property; (3) any other person actually in possession of or occupying the
3 property; (4) any person having a lien or interest subsequent to the interest of the
4 trustee in the trust deed, where the lien or interest appears of record or where the
5 trustee or the beneficiary has actual notice of the lien or interest. The notice may be
6 delivered personally instead of by mail.

7 * Sec. 5. AS 34.20.070 is amended by adding new subsections to read:

8 (e) In (c) of this section, if the existence of a lien or nonpossessory interest can
9 only be inferred from an inspection of the real property, the person holding the lien or
10 nonpossessory interest is not entitled to notice under this subsection unless the lien or
11 nonpossessory interest appears of record or a written notice of the lien or
12 nonpossessory interest has been given to the beneficiary or trustee before the
13 recording of the notice of default.

14 (f) If the trustee delivers notice personally under (c) of this section to the
15 property or to an occupant of the property, the trustee may, notwithstanding (c) of this
16 section, deliver the notice up to 20 days after the notice of default is recorded. If there
17 is not a structure on the property and a person is not present on the property at the time
18 of delivery, the trustee may place the notice on the property, or as close as practicable
19 to the property if

20 (1) there is not a practical road access to the property; or

21 (2) access to the property is restricted by gates or other barriers.

22 (g) If the trustee or other person who delivered notice under (f) of this section
23 signs an affidavit for the delivery, the affidavit is prima facie evidence that the trustee
24 complied with (f) of this section. After one year from the delivery, as evidenced by the
25 affidavit, the trustee is conclusively presumed to have complied with (f) of this section
26 unless, within one year from the delivery, an action has been filed in court to contest
27 the foreclosure based on failing to comply with (f) of this section.

28 (h) If a person who is entitled to receive notice by mail under (c) of this
29 section is known by the beneficiary or trustee to be deceased, the trustee may satisfy
30 the notice requirements of (c) of this section by mailing the notice to the last known
31 address of the deceased person and to the personal representative of the deceased

1 person if the beneficiary or trustee knows that a personal representative has been
2 appointed for the deceased person.

3 (i) If a person who is entitled to receive notice by mail under (c) of this section
4 is known by the beneficiary or trustee to be deceased but the trustee and the
5 beneficiary do not know that a personal representative has been appointed for the
6 deceased person, the trustee may satisfy the notice requirements of (c) of this section
7 by

8 (1) mailing the notice to the heirs and devisees of the deceased person

9 (A) whose names and addresses are known to the beneficiary or
10 trustee; or

11 (B) who have recorded a notice of their interest in the property;

12 and

13 (2) publishing and posting the notice of the foreclosure as provided by
14 law for the sale of real property on execution, except that the notice must be titled "To
15 the Heirs or Devisees of (insert the name of the deceased person)" and include in the
16 body of the notice a list of the names of the persons who are known by the beneficiary
17 or trustee to be the heirs and devisees of the deceased person.

18 (j) If notice is given as required by (h) and (i) of this section, an heir or
19 devisee of the deceased person may not challenge the foreclosure on the ground that
20 the heir or devisee did not receive notice of the sale, unless the heir or devisee
21 challenges the foreclosure on this ground within three months after the sale.

22 (k) A person may bring an action in court to enjoin a foreclosure on real
23 property only if the person is the trustor of the deed of trust under which the real
24 property was foreclosed, a guarantor of the obligation that the real property is
25 securing, a person who has an interest in the real property that has been recorded, a
26 person who has a recorded lien against the real property, an heir to the real property,
27 or a devisee of the real property.

28 (l) If a person brings an action under (k) of this section to stop a sale of real
29 property, and if the sale is being brought because of a default in the performance of a
30 nonmonetary obligation required by the deed of trust that the real property is securing,
31 the court may impose on the person the conditions that the court determines are

1 appropriate to protect the beneficiary.

2 (m) In this section, "devisee," "heir," and "personal representative" have the
3 meanings given in AS 13.06.050.

4 * Sec. 6. AS 34.20.080(a) is amended to read:

5 (a) The sale authorized in AS 34.20.070 shall be made under the terms and
6 conditions and in the manner set out in the deed of trust. The proceeds from a sale
7 shall be placed in escrow until they are disbursed. However, the sale shall be made

8 (1) at public auction held at the front door of a courthouse of the
9 superior court in the judicial district where the property is located, unless the deed of
10 trust specifically provides that the sale shall be held in a different place, except that a
11 trustee may also accept bids by telephone, the Internet, and electronic mail if the
12 trustee has taken reasonable steps to ensure that the bidding methods using the
13 telephone, the Internet, or electronic mail are fair, accessible, and designed to
14 result in money that is immediately available for disbursement; and

15 (2) after public notice of the time and place of the sale has been given
16 in the manner provided by law for the sale of real property on execution.

17 * Sec. 7. AS 34.20.080(b) is amended to read:

18 (b) The attorney for the trustee or another agent of the trustee may conduct
19 the sale and act in the sale as the auctioneer for the trustee. The trustee may set
20 reasonable rules and conditions for the conduct of the sale. Sale shall be made to
21 the highest and best bidder. The beneficiary under the trust deed may bid at the
22 trustee's sale. Except as provided by (g) of this section, the [THE] trustee shall
23 execute and deliver to the purchaser a deed to the property sold.

24 * Sec. 8. AS 34.20.080(e) is amended to read:

25 (e) The trustee may postpone sale of all or any portion of the property by
26 delivering to the person conducting the sale a written and signed request for the
27 postponement to a stated date and hour. The person conducting the sale shall publicly
28 announce the postponement to the stated date and hour at the time and place originally
29 fixed for the sale. This procedure shall be followed in any succeeding postponement,
30 but the foreclosure may not be postponed for more than 12 months unless a new
31 notice of the sale is given under (a)(2) of this section. A sale may be postponed for

1 up to 12 months from the sale date stated in the notice of default under
2 AS 34.20.070(b) without providing a basis for challenging the validity of the
3 foreclosure process because of the length of time the foreclosure has been
4 pending.

5 * Sec. 9. AS 34.20.080 is amended by adding new subsections to read:

6 (f) After delivery of a deed under (b) of this section, the trustee shall distribute
7 any cash proceeds of the sale in the following order to

8 (1) the beneficiary of the deed of trust being foreclosed until the
9 beneficiary is paid the full amount that is owed under the deed of trust to the
10 beneficiary;

11 (2) the persons who held, at the time of the sale, recorded interests,
12 except easements, in the property, that were subordinate to the foreclosed deed of
13 trust; the distribution under this paragraph shall be made according to the priority of
14 the recorded interest, and a recorded interest with a higher priority shall be satisfied
15 before distribution is made to the recorded interest that is next lower in priority;
16 however, if a person holds a recorded interest that is an assessment, the person is
17 entitled only to the amount of the assessment that was due at the time of the sale; in
18 this paragraph, "recorded interest" means an interest, including a lease, recorded under
19 AS 40.17;

20 (3) the grantor in the trust deed if the grantor is still the owner of the
21 property at the time of the foreclosure sale, but, if the grantor is not still the owner of
22 the property at the time of the foreclosure sale, then to the grantor's successor in
23 interest whose interest appears of record at the time of the foreclosure sale.

24 (g) The trustee may withhold delivery of the deed under (b) of this section for
25 up to five days after the sale. If, during the five days, the trustee determines that the
26 sale should not have proceeded, the trustee may not issue the deed but shall

27 (1) inform the beneficiary, the otherwise successful bidder, and the
28 grantor of the trust deed or the grantor's successor in interest that the sale is rescinded;
29 and

30 (2) return to the otherwise successful bidder money received from the
31 otherwise successful bidder as a bid on the property; return of this money is the

1 otherwise successful bidder's only remedy if the trustee withholds delivery of the deed
2 under (b) of this section.

3 (h) If a trustee rescinds a sale under (g) of this section and the obligation
4 secured by the deed of trust remains in default, the trustee may, at the request of the
5 beneficiary, reschedule the sale for a date that is not less than 45 days after the date of
6 the rescinded sale. Not less than 30 days before the rescheduled sale date, the trustee
7 shall

8 (1) mail notice of the rescheduled sale date by certified mail to the last
9 known address of each of the persons identified by AS 34.20.070(c); and

10 (2) publish and post the notice of the rescheduled sale date as provided
11 by law for the sale of real property on execution.

12 (i) Unless a sale is rescinded under (g) of this section, the sale completely
13 terminates the rights of the grantor of the trust deed in the property.

14 * Sec. 10. AS 34.20.120(a) is amended to read:

15 (a) The trustee under a trust deed upon real property given to secure an
16 obligation to pay money and conferring no duties upon the trustee other than the duties
17 that are incidental to the exercise of the power of sale conferred in the deed may be
18 substituted by recording in the mortgage records of the recording district in which the
19 property is located a substitution executed and acknowledged by

20 (1) all the beneficiaries under the trust deed, or their successors in
21 interest; or

22 (2) the attorneys for all of the beneficiaries or the attorneys for all
23 of the beneficiaries' successors in interest.

24 * Sec. 11. AS 34.20.120(b) is amended to read:

25 (b) The substitution must contain

26 (1) the date of execution of the trust deed;

27 (2) the names of the trustee, trustor, and beneficiary, or, if the
28 substitution is executed by the attorney for the beneficiary or successor in
29 interest to the beneficiary, the name, address, and Alaska Bar Association
30 identification number of the attorney;

31 (3) the book and page where the trust deed is recorded or the serial

1 number assigned to the trust deed by the recorder;

2 (4) the name of the new trustee; and

3 (5) an acknowledgment signed and acknowledged by the trustee
4 named in the trust deed of a receipt of a copy of the substitution, or an affidavit of
5 service of a copy of it.

6 * Sec. 12. AS 34.20 is amended by adding a new section to read:

7 **Sec. 34.20.125. Trustee bond required.** (a) Before performing the duties of a
8 trustee under AS 34.20.070 and 34.20.080, a person shall obtain a surety bond in the
9 amount of \$250,000 to protect the grantors and beneficiaries of trust deeds against
10 fraud or defalcation by the trustee in the performance of the duties.

11 (b) The bond required by (a) of this section must be a bond that is terminable
12 at any time by the surety by sending written notice by first class United States mail to
13 the obligee and the principal at the address for each that is last known by the surety.
14 The bond terminates when 30 days have expired after the date the notice is mailed.
15 The surety is not liable for an act or omission of the principal that occurs after the
16 termination. The surety is not liable after the termination for more than the face
17 amount of the bond, regardless of the number of claims made against the bond or the
18 number of years the bond remains in force. A revision of the amount of the bond is not
19 cumulative.

20 (c) Each year, a trustee shall file evidence of the bond with the Department of
21 Commerce, Community, and Economic Development. The Department of Commerce,
22 Community, and Economic Development shall verify that the evidence is satisfactory
23 to indicate the existence of the bond, keep an updated list of trustees who are bonded,
24 and make the evidence and the list available to the public for inspection. The
25 Department of Commerce, Community, and Economic Development may charge the
26 trustee a reasonable fee for verifying the existence of the bond and maintaining the
27 records required by this subsection.

28 (d) The bonding requirements of this section do not apply to

29 (1) a title insurance company authorized under AS 21.66 to transact a
30 title insurance business in this state; or

31 (2) a title insurance limited producer who is licensed as required by

1

AS 21.66.270.

March 1, 2007

**Mr. Stephen Routh
Routh Crabtree, apc
3000 A Street, Suite 200
Anchorage, AK 99503**

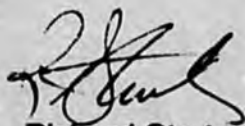
**Re: Senate Bill 18 (now CS SB18) "An Act relating to real property
foreclosures, executions, and deeds of trust."**

Dear Stephen:

**Wells Fargo is pleased to support this bill. It will benefit all parties to the
foreclosure process including borrowers, lenders, trustees, and title agents. We
believe that the changes are timely, necessary and well-conceived.**

Thanks again for bringing this bill to our attention. We are pleased to support it.

Sincerely,



**Richard Strutz
Regional President**

**Kirk Wickersham
280 W. 34th Ave.
Anchorage, Alaska 99503**

561-3726

February 10, 2007

Re: SB 18

Dear Members of the Legislature,

I am a real estate lawyer, real estate broker and title insurance licensee.

I have had the opportunity to review SB 18, which updates the provisions of Alaska's foreclosure law.

The most outstanding provision is the requirement for publication on the Internet. This will improve dissemination of the sale information to the general public, and thus it should increase the number of bids above the offset bid.

Bids above the offset bid are in everyone's interest. The debtor receives the net proceeds of the sale. The lender does not have to take title, renovate and market the property. And the successful bidder is obviously happy.

I encourage you to adopt this bill. It is my understanding that, if adopted, this bill will become a model for legislation in other states. Please contact me if you have any questions.

Sincerely,


Kirk Wickersham

AlaskaUSA Federal Credit Union

February 12, 2007

Mr. Stephen Routh
Routh & Crabtree, APC
3000 A Street, Suite 200
Anchorage, AK 99503

Re: SB 18-An Act relating to property foreclosures and executions

Dear Mr. Routh:

Thank you for alerting us to this legislation. We think the changes proposed in the bill are well thought out, necessary, and will benefit borrowers, financial institutions, and title agents.

We are pleased to support this legislation.

Sincerely,



William B. Eckhardt
President



**First American
Title Insurance Company**

**BRYAN S. MERRELL
REGIONAL COUNSEL**

February 7, 2007

To Whom It May Concern:

This letter is written in support of Senate Bill 18, relating to Deeds of Trust and Foreclosures.

I am Regional Counsel for First American Title Insurance Company. First American is the leading title insurer in the United States, and here in Alaska. I am an 18-year member of the Alaska Bar, and a former long time resident of Alaska. In my capacity as an in-house attorney for First American, I have had many occasions to be involved in non-judicial foreclosure related issues and controversies, as First American has produced title insurance products related to such foreclosures, and acted as trustee in many cases as well.

SB 18 would clarify a large number of issues relative to non-judicial foreclosure actions. It would fill in gaps in the current statutes relative to procedure. It would clarify issues which Alaska Supreme Court opinions over the years have made unclear. The result of passage of the bill would be a clearer pattern of conduct for the parties to the foreclosure, which should result in less litigation and higher bidding for the properties involved in the process. I urge your yes vote for the bill, and would be happy to answer any questions you may have regarding it.

Very truly yours,

FIRST AMERICAN TITLE INSURANCE CO.

**Bryan S. Merrell
Regional Counsel**

2101 Fourth Avenue, Suite 800, Seattle, WA 98121

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ALASKA CREDIT UNION LEAGUE

February 21, 2007

Stephen Routh
Routh Crabtree, apc
3000 A Street Suite 200
Anchorage, AK 99503

Re: SB 18-An Act relating to property foreclosures and executions.

Dear Mr. Routh:

Thank you for alerting us to this legislation. We think the changes proposed in the bill are well thought-out, necessary, and will benefit borrowers, financial institutions, and title agents.

We are pleased to support this legislation.

Sincerely,

Robert M. Teachworth
President



**Alaska Mortgage Bankers Association
P.O. Box 9-2691
Anchorage, Alaska 99509-2691**

February 16, 2007

Re: Senate Bill 18 (now CS SB18)

Stephen Routh
Routh Crabtree, apc
3000 A Street Suite 200
Anchorage, AK 99503

Dear Stephen:

The Alaska Mortgage Bankers Association is pleased to support this bill. We believe it will benefit borrowers, lenders, title agents, and trustees alike. The changes proposed are well-thought out, timely, and necessary. They also enjoy wide support among the real estate community.

Thanks as well for explaining the bill at our meeting on February 15, 2007. We appreciated your presentation, as well as answering questions directly from our members.

Thanks again for bringing this bill to our attention. We are pleased to support it.

Sincerely,

Kevin M. Breeland

Kevin M. Breeland
President
Alaska Mortgage Bankers Association
P.O. Box 9-2691
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breelandk@residentialmtg.com