THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

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The Honorable Zack Fields
Co-Chair, House Labor and Commerce Committee
Alaska State Capitol, Room 24
Juneau, AK 99801

The Honorable Carolyn Hall
Co-Chair, Senate Labor and Commerce Committee
Alaska State Capitol, Room 434
Juneau, AK 99801

Dear Co-Chairs Fields and Hall:

During the March 26 House Labor and Commerce Committee hearing on House Bill 148: Omnibus Insurance Bill, there were member questions to which the Division of Insurance was to provide a written response. Our response follows:

1. **Co-Chair Fields asked why the statute of limitations in Section 1 was changed to 20 years and not longer to, for instance, 40 years.**

   The division settled on 20 years as the current statute of limitations for criminal behaviors is five years with a fraud enhancement of three years. The average term life insurance policy is for 20 years, which was also part of the division calculus. It can be hard for fraud investigations to find accurate records that are older than 20 years.

2. **Rep. Burke and Rep. Coulombe requested information on why the division was changing the wet marine and transportation tax provisions in Section 6 and 62. In particular, why has met marine and transportation carved out in statute?**

   The changes in HB 148 are not increasing the tax rate, but the result will be increased tax received. This is due to deleting allowed deductions that currently result when the original insurance company does not pay tax on the premiums but sends the premiums to another company. Often, the company receiving the premiums are not admitted companies and thus, Alaska loses tax on those premiums. The other part of the calculation is the allowance to deduct losses paid. This is not the normal calculation for all other property and casualty premiums where the original insurer must pay the tax. The increase in tax received should not affect consumers. The underlying tax rate will be three quarters of one percent.

The calculation for wet marine and transportation tax was carved out in statute in 1966 when the proposed insurance code was drawn up using the laws from Montana, Idaho and Washington. Those states had this unique calculation for wet marine and transportation. The division has compared state rates for all states and only twelve continue to use the calculation of "gross underwriting profit." Of the three states Alaska looked to in 1966, only Washington State continues to use the "gross underwriting profit" provisions.

3. **Co-Chair Fields asked how changing the definition of "policyholder behavior" in Section 11 would change how companies could surveil Alaskans.**

The changes in Section 11 are technical in nature and have no impact on how insurance entities are allowed to surveil policyholders in Alaska. The term "policyholder behavior" in this context means actions by policyholders related to their policy. This specific change is consistent with NAIC Model Law 820 – *Standard Valuation Law* and is specific to financial accreditation requirements.

The division published Bulletin B 24-01 on February 1, 2024 that reminds insurers that all models including Artificial Intelligence (AI) must conform to statutory trade practices.

The use of consumer data in rating factors, whether gathered through telematics (policyholder and vehicle driving data), through the policyholder application (occupation, age, etc.) or purchased by the insurer from third parties, in property and casualty rates is a source of great concern at the National Association of Insurance Commissioners (NAIC). Alaska is an active member of multiple NAIC working groups and committees that are looking at how insurers use this information to create rating factors that are then used to calculate policyholder premium and how privacy protections are accounted for.

4. **Co-Chair Fields asked what the national best practices in terms of consumer notifications for premium increases are of more than ten percent or non-renewals in both life & health, and property & casualty policies in relation to Sections 35, 36, 37 and 49. Co-Chair Fields further asked if the proposed notice of 45 days would allow sufficient time for a consumer to shop for new coverage or if a longer period, such as 90 days, would be needed.**

The division proposed the increase to a 45 day notice to provide parity in our life & health and property & casualty statutes. The division heard testimony to the Consumer Liaison committee at NAIC by United Policyholders that increasing short consumer notification periods is important in the current hard insurance market to ensure consumers have sufficient time to shop for new policies. United Policyholders is a non-profit 501(c)(3) organization whose mission is to be a trustworthy and useful information resource and an effective voice for consumers of all types of insurance in all 50 states.

The health statute (AS 21.36.225) has been in effect for several years and is working well for the health plans to which it applies. The needed revision in Section 35 is to address a limited number of circumstances that weren't being addressed under guaranteed renewability statutes. Major medical policies are renewable, and the insurance company can only cancel the policy for a limited number of circumstances such as nonpayment of premium. Unfortunately, the division has seen insurers providing no notice for cancellation due to non-payment and consumers have been unaware that their policy cancelled. The intent is to make sure that consumers are made aware that their policy is ending so they can take action if they want to avoid a lapse in coverage.

Under state and federal law, if the company wants to discontinue a policy (e.g. exit the market, no longer offering that type of plan), the company must provide 60-days-notice for an individual/family policy or 180-days-notice for a group policy so that a consumer or group policyholder has sufficient time to secure major medical coverage.

Across the country, the division has found notice requirements as short as 20 days—like current statute. The average seems to fall between 45 and 60 days.

5. **Co-Chair Fields asked if the division has reviewed other best practice cancer screenings in addition to the proposed updates to the colorectal cancer screening mandate in Section 46 of the bill.**

The division does not specifically monitor best practices for all health care, but the division does have regular meetings with the Department of Health on health care trends that the division believes are appropriate to be included in our Essential Health Benefits (EHB) that are required by the Affordable Care Act (ACA). The division also considers recommendations received from groups (i.e. the American Cancer Society) for inclusion as an EHB.

The colorectal cancer screening benefit being updated in Section 46 was originally drafted in terms of the American Cancer Society screening recommendations at the time. This was passed as HB 393 by Representative Anderson in 2006. When that recommendation was changed, the division was alerted by the American Cancer Society to consider updating ages for the screening mandate.

6. **Co-Chair Fields asked if there are variables to consider with Owner Controlled or Contractor Controlled Insurance Programs (OCIP or CCIP) in Section 40 that should be shared with the committee. How should the committee look at these projects? Are they used for major construction projects or multifamily housing projects? Should the $50 million project limit be reduced or would that destabilize the insurance market? Is it possible to have different OCIP thresholds by different types of industry, or should it be the same for all industries?**

OCIP or CCIP are governed by AS 21.36.475 and are currently limited to major construction projects as defined in AS 21.36.475(c)(3):

> *"(3) 'major construction project' means the process of constructing a structure, building, facility, or roadway or major renovation of more than 50 percent of an existing structure,*

> *building, facility, or roadway having a contract cost of more than $50,000,000 of a definite term at a geographically defined project site;"*

Any consideration of expanding that definition to add a new definition for "major multi-owner residential construction project" or lowering the $50 million limit should be balanced with a destabilization of the Alaska insurance market, particularly in the general liability line of business. Reducing the limit too low would materially diminish the exposure base in a small market and could impact the ability for an insurer to have capacity for the general liability market.

Please advise if we can provide any further assistance on this topic.

Sincerely,

Lori Wing-Heier

Lori Wing-Heier
Director

cc: Lizzie Kubitz, Legislative Liaison, DCCED
Jordan Shilling, Director, Governor's Legislative Office