

March 4, 2024

The Honorable Sarah Vance, Chair
and Alaska House Judiciary Committee
Alaska House of Representatives
Alaska State Capitol
120 4th Street
Juneau, Alaska 99801

Via Email

RE: House Bill 227, Electric Utility Liability

Dear Chair Vance and Members of the Committee:

The American Property Casualty Insurance Association (APCIA) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. In Alaska, APCIA's members write approximately \$10 billion in property and casualty insurance premiums, which is more than 60% of the market. We respectfully submit the following comments in opposition to House Bill 227.

As introduced, this legislation would create a broad grant of immunity from liability to electrical utilities when a loss occurs due to contact between vegetation and the utility's facilities if the vegetation is located or originated outside the boundaries of the utility's real property, lease, permit, easement, or right-of-way. In addition, the bill provides that a utility is not responsible for removing vegetation on its property if part of the vegetation's trunk is inside the boundary of the utility's property, lease, permit, easement, or right-of-way.

APCIA is concerned about House Bill 227 as a matter of public policy for the following reasons:

First, a grant of broad immunity from civil liability such as this one would eliminate legal recourse for property owners to recover their economic losses, which could result in serious financial hardship to homeowners and business owners.

Second, insurance companies would lose their ability to subrogate against an at-fault utility to recover the costs of losses paid to their insured property owners. This would only have a negative impact on property insurance costs.

Third, this legislation could create a disincentive for utilities to responsibly manage the vegetation around their power lines. If the utilities are granted immunity from liability, they will no longer have a financial incentive to clear vegetation that could become fuel for a wildfire.

Electrical utilities in other states have raised concerns about liability exposure that arise from hazards beyond their control. Recognizing these challenges, insurers have supported actions such as enabling improved “rights of way” for utility companies to access and manage vegetation which, if not controlled, could fuel dangerous wildfires. This also includes utilities establishing a “wildland fire protection plan” and establishing a vegetation management plan. Upon identification of hazardous vegetation that could fuel a conflagration and that may pose a threat to public safety, and with proper notice to the property owner, utilities should be granted the proper rights of way to reduce the risk of its electric facilities initiating a wildland fire. APCIA would support an approach such as this one in Alaska as an alternative to a broad grant of immunity from civil liability.

As we have seen in recent years, wildfire losses have underscored the need to harden utility infrastructure, to prevent ignitions from occurring during severe weather events. There are many considerations on how best to approach this challenge, whether it involves burying all lines in high-risk regions or leveraging a blended approach of burying some lines while insulating others. While there are costs associated with these approaches, it is important to consider the savings to life and property that will result when these fires are prevented from occurring. As such, insurers are particularly concerned about this proposal as the unintended consequences of failing to address these issues could result in increased insurance costs for consumers or less available coverage, as the economic realities of wildfire conflagration must be passed on to consumers.

Attached to this letter are insurance industry amendments offered in 2021 for House Bill 29, similar legislation to HB 227. We recognize that the utilities outright opposed these proposed amendments then, citing concerns about additional costs and potential exposure resulting from mitigation actions that may require advance communication and coordination with a landowner. However, across states and at the federal level, there is increasing recognition that simply changing liability laws to shield utilities is not an adequate solution.

APCIA still believes that the ability to collaboratively work with the utilities, the bill sponsor, and other stakeholders would result in a meaningful, mutually acceptable solution to address this important public safety project.

Thank you for your considering our comments. We urge you to vote “no” on House Bill 227. We stand ready to work with you, the utilities, the bill sponsor, and other stakeholders to explore workable solutions to this problem.

Sincerely,



Lyn D. Elliott
Vice President, State Government Relations
American Property Casualty Insurance Association