

to perform whenever feasible, all construction and/or reconstruction projects by contract after such projects have been duly advertised for competitive bids except that professional and technical services in connection therewith shall insofar as possible be secured under negotiated contracts or under advantageous arrangements with the Bureau of Public Roads or political subdivisions and except in cases of emergency.

Sec. 3. Subsection (9), Section 3, Arti-

cle I, Title I, Chapter 152, Session Laws of Alaska, 1957, is hereby amended to read as follows:

(9) "Highway" means all highways (whether included in primary or secondary systems), roads, streets, trails, walks, bridges, tunnels, drainage structures and other similar or related structures or facilities and further includes ferry systems, whether operated solely within Alaska or to connect with Canadian Highways, and all related facilities.

Approved April 28, 1959

## CHAPTER 125

### AN ACT

**Making Provision for the survival of all causes of action upon death; repealing Secs. 61-7-1, ACLA 1949 as amended by Chap. 102, SLA 1949 and 61-7-2, ACLA 1949 and substituting a new section designated 61-7-1, ACLA 1949 therefor; and providing for an effective date.**

(F.F.C.C.S.H.B. 95)

**Be it enacted by the Legislature of the State of Alaska:**

Section 1. Secs. 61-7-1, ACLA 1949 as amended by Chap. 102, SLA 1949 and 61-7-2, ACLA 1949 are hereby repealed and the following new section designated 61-7-1, ACLA 1949 is substituted therefor:

**61-7-1. All Causes of Action Survive: Executor's or Administrator's Right of Action.** All causes of action by one person against another, whether arising on contract or otherwise, except those involving defamation of character, survive to the personal repre-

sentatives of the former and against the personal representative of the latter, but this shall not be construed so as to abate the action mentioned in Section 55-3-13, or to defeat or prejudice the right of action given by Section 55-3-8. The executors or administrators may maintain an action thereon against the party against whom the cause of action accrued, or, after his death, against his personal representatives.

Sec. 2. This Act shall take effect immediately upon its passage and approval or upon its becoming law without such approval.

Approved April 28, 1959

## CHAPTER 126

### AN ACT

**Relating to Title Insurance Companies; providing for supervision and regulation thereof; prescribing penalties; amending Subsection (m) of Section 34-3-5 ACLA 1949, and Section 42-1-4, ACLA 1949, as amended by Ch. 132, SLA 1953; and providing for an effective date.**

(C.S.H.B. 103)

**Be it enacted by the Legislature of the State of Alaska:**

Section 1. **Paid In Capital Required; Guaranty Fund.** Every domestic or for-

eign corporation organized either solely or among other things for the purpose of insuring titles to real property in this state and of insuring against loss by reason of defective titles thereto, or incumbrances thereon, shall be subject to and shall comply with all the requirements of the laws of this state made applicable to insurance companies generally and the rules and regulations of the Commissioner, excepting as hereinafter provided and insofar as said laws, rules, or regulations may be inconsistent with the other provisions in this chapter contained. Before it shall be entitled to a certificate of authority to transact a title insurance business in this state it shall have a paid-up unimpaired cash capital equal to not less than \$100,000 in lawful money of the United States, \$50,000 of which shall be deposited with the Treasurer of the State of Alaska as a guaranty fund for the protection of the insured under policies of title insurance issued by such company.

**Sec. 2. Deposits in Guaranty Fund.** Within 30 days after the filing of each annual statement the corporation shall deposit with the State Treasurer a sum equal to 10 per cent of the premiums received by it during the preceding year covering property in this state, as shown by such annual statement, until such accumulated deposits, added to the sums originally deposited with the State Treasurer, as provided herein, total \$100,000, but in no event shall the corporation be required to deposit more than \$10,000 in any one year.

**Sec. 3. Securities Authorized as Deposits.** The deposits required to be kept with the State Treasurer as a guaranty fund may be made wither in lawful money of the United States or in one or more of the following classes of securities:

(1) Interest bearing obligations of the United States or of those for the payment of the principal and interest on which the faith of the United States is pledged.

(2) Bonds of any state in the United States.

(3) Bonds of any municipality in the United States having a population of

more than 50,000, or bonds of any municipality, municipal corporation or civil subdivision in this state having a population of more than 2,000, the market value of which bonds, at all times while so deposited, shall be not less than 90 per cent of par value.

(4) A deposit not in excess of \$10,000 in any one bank organized and existing under the laws of this state in a savings deposit account free of offsetting debts and claims insured in full by the Federal Deposit Insurance Corporation and entered in the name of the "Treasurer of the State of Alaska in trust for the holders of the obligations of the ..... (depositing company) pursuant to Ch. .... SLA 1959 (This Act)".

(5) A deposit not in excess of \$10,000 in any one issuing institution, in investment certificates or share accounts of savings and loan associations organized and existing under the laws of this state, or of the United States, and holding membership in the Federal Home Loan Bank System. The certificates and share accounts shall be free of offsetting debts and claims and shall be issued in the name of the State Treasurer in the form indicated in subsection 4 of this section.

(6) With the written approval of the Commissioner bonds or notes secured by trust deed or first mortgage upon improved real property within this state not otherwise encumbered, and having a value of at least twice the amount loaned thereon or otherwise insured by an agency of the United States, which shall be accompanied by a policy of title insurance of a company qualified to insure title in this state insuring that the mortgage or trust deed so deposited is a first lien on the real property covered thereby.

**Sec. 4. Special Guaranty Fund; Conditions.** The securities to be deposited as provided in this chapter shall be held by the state treasurer as a special guaranty fund securing the faithful performance on the part of any such company of all its undertakings and liabilities upon its guaranteed certificates of title, policies and title insurance, or other guarantees of title to property and to the

extent of any outstanding liabilities thereon; but shall not be subject to any other outstanding liabilities of such company while such securities are held by the state treasurer. They shall be held subject to the following conditions:

(1) The state treasurer shall deliver to the company depositing such guaranty fund a receipt in full for all securities so deposited with him. The company may from time to time withdraw securities or any part thereof on depositing with said state treasurer cash or other authorized securities, so as at all times to maintain the value of said guaranty fund deposit at not less than the amount required by this Act.

(2) All interest or dividends accruing on said securities deposited with the state treasurer under the authority of this Act shall belong to and at all times be available to the company making said deposit, and the said state treasurer shall permit said company, so long as it shall continue solvent, to collect the interest or dividends on said securities so deposited. The state treasurer shall be the agent of both parties to receive, receipt for and pay over said interest or dividends when the same are paid to him by reason of the custody of said deposit, and he is hereby authorized to make such endorsements on said securities as the occasion and the due and orderly course of business may require. The rights of said company to demand of and receive from the state treasurer said interest or dividends, shall be subject, however, to the provisions of the following paragraph:

(3) If, pursuant to liability on guaranteed certificate of title, or policy of title insurance or other guaranty of title to property, a judgment shall be entered in a court of general jurisdiction in this state against a company which has made a deposit of securities with the state treasurer subject to the provisions of this Act and such judgment shall have become final either by failure to appeal, dismissal of appeal, or by affirmance on appeal, or otherwise, and such judgment shall not be paid and satisfied in full within sixty days after the finality of said judgment has become fixed, then in every such case said judgment may be enforced against said securities so de-

posited with the state treasurer upon petition of the judgment creditor in the same cause wherein judgment was obtained, setting forth the facts aforesaid, whereupon it shall be the duty of the court wherein said judgment is entered to direct the issuance of a special execution directed to the proper peace officer, enforcing such executions, in the City of Juneau, Alaska, which execution shall be as near as may be in the usual form and shall require on the part of said officer the sale of said securities or so much thereof as may be necessary to the satisfaction of said judgment. When application is made for the issuance of said special execution herein provided for, and the court allows the same, the order in which said special execution is authorized shall direct that service of a copy of the said judgment and the said petition shall be made within five days thereafter upon the state treasurer. All proceedings relating to the enforcement of said writ of execution against said securities shall conform as near as may be to the practice in ordinary cases except as herein otherwise specially provided. Proceedings under said execution shall be a sufficient authority, where notices aforesaid have been served on said state treasurer, for the delivery by said state treasurer to the officer of the securities to be sold upon said execution.

(4) Except as herein provided, the state treasurer shall hold intact the securities deposited with him and shall retain the same until such time as all liabilities under any guaranteed certificate of title or policy of title insurance, or other guaranty of title covering property in this state, issued by the company having deposited such securities, shall have legally terminated, or until such time as all liabilities of said company under such guaranteed certificates of title or policies of title insurance or other guaranties of title shall have been assumed by some other title insurance company authorized to transact business in this state. It shall be the duty of the commissioner to advise the state treasurer of the termination of all liability of such title insurance company, after the commissioner shall have completed an examination into the affairs of such company and determined that all liability against the guaranty fund has been legal-

ly terminated or satisfactorily assumed by some other title insurance company licensed to do a title insurance business in this state. Upon the advice of the commissioner, the state treasurer shall be authorized and it shall be his duty to forthwith return the securities to the said company and concurrently therewith the commissioners shall revoke the certificate of authority granted such company to do any title insurance business in the state.

(5) Provided, however, that if the aforesaid guaranty fund is at any time impaired by reason of the payment of any judgment against the company depositing such funds or for any reason whatsoever and remains so impaired for a period of thirty days after written notice to the company, the commissioner is hereby authorized and it shall be his duty to immediately revoke the certificate of authority granted said company, and to publish a notice of such revocation in a daily paper of general circulation published in the city wherein said company has its principal offices at least once a week for six successive weeks, the expense of such publication to be chargeable against the said guaranty fund of said company.

**Sec. 5. Title Insurance Unearned Premium Reserve Fund.** Every title insurance company, either foreign or domestic, operating in this state under the provisions of this chapter, shall annually set apart, establish, segregate and maintain at the end of each year into an account to be known as Title Insurance Unearned Premium Reserve Fund, a sum equal to three per cent of its gross premiums on title insurance policies issued during the year then ending covering property in this state. Such reserve fund shall be in addition to the deposit with the State Treasurer. There shall be no other reserve requirements. Such reserve must be maintained separately and apart from the capital of the company, and shall be invested in such securities as are authorized for investment by domestic insurance companies under the laws of this state. Funds accumulated under this provision shall never be used for the payment of any obligation other than those incurred in connection with title insurance, and, in the event of the

insolvency of a company, the fund hereby provided shall be used to pay losses and to purchase reinsurance to protect title insurance policy holders even though there be no accrued title insurance claims. Said reserve fund shall be deemed, considered and shall constitute unearned portions of the original premiums and shall be charged as a reserve liability of such company in determining its financial condition.

Such reserve funds shall be maintained in the treasury of such insurer as additional security to holders of title insurance policies issued by such insurer. When, on account of losses or otherwise, the amount of said reserve fund of any such insurer shall be less than the amount required by this Act no further insurance policies shall be issued by such insurer until the deficiency below the amount so required is restored. The net income and profits derived from such fund shall be transferred to the general assets of the company. The company shall also at all times keep a separate record of the cash and securities of such reserve fund, giving complete identification of the assets belonging to such fund and showing full particulars as to withdrawals and additions. After the expiration of 120 months from the date of the first annual deposit into the unearned premium reserve fund made by any corporation now or hereafter qualified that portion of said reserve fund established more than 120 months prior shall be released and shall no longer constitute a part of said reserve fund and may be used for any corporate purpose.

**Sec. 6. Dividends.** Such corporation may not pay dividends except from net profits remaining on hand after retaining unimpaired:

- (1) The subscribed capital stock.
- (2) The amount required to be set aside as Unearned Premium Reserve Fund.
- (3) A sum sufficient to pay current liabilities for operating expenses and taxes, and losses established or in process of settlement, without impairment of the Unearned Premium Reserve Fund.

**Sec. 7. Filing Schedule of Rates and**

**Policy Forms.** Every title insurance corporation shall file with the State Insurance Commissioner its schedule of rates and its policy forms. Rates shall be subject to regulation pursuant to the general insurance laws of the state. No such company shall in connection with the writing or issuance of any policy of title insurance deviate from such rate schedule or policy forms as filed, either by making any reduction or increase in rates or altering its policy form unless it had previously filed such new rate or policy form, or by discriminating in favor of or against its insured. No rebates or discounts shall be paid, allowed or permitted to any person.

**Sec. 8. Filing Annual Statement; Filing Fee.** Every corporation shall, on or before March 1 of each year, furnish the Insurance Commissioner a sworn statement of assets and liabilities, and of all title premiums received by it during the preceding calendar year, setting forth among other things that three per cent of all gross premiums on title insurance policies issued by it during such year covering property in this state have been set aside and held by it in an account known as "Title Insurance Unearned Premium Reserve Fund" as provided in this Act. Such statement shall also show in such form as may be prescribed by the commissioner all unpaid losses and claims upon title insurance policies of which the corporation has received due notice in writing from or on behalf of the insured. With the filing of such statement the corporation shall pay a filing fee of \$15.00, to be placed in the general fund.

**Sec. 9. Application for Certificate of Authority; Fee.**

(1) Every such company, before engaging in a title insurance business in this state, shall apply to the commissioner of insurance for a certificate of authority to transact such business. The company shall submit with the application a statement duly sworn to by the proper officers of the company showing its assets and liabilities and that it has complied with the capital requirements and initial guarantee fund deposit prescribed by this Act.

(2) With the filing of the applica-

tion the corporation shall pay a fee of \$50.00 to be deposited in the general fund and in addition thereto shall pay all traveling expenses of the commissioner and per diem of \$20.00 a day not to exceed a total of three days per plant, incurred in examining the applicant's title plant or plants.

**Sec. 10. Issuance of Certificate of Authority by Commissioner.** If the commissioner shall be satisfied that the applicant has fully complied with the foregoing and the other provisions of this Act he shall issue a certificate of authority. Any company which has heretofore qualified in this state as a trust company with title insurance powers under the banking act and is in good standing under existing law shall be entitled to a certificate of authority upon its filing the application and furnishing the information required in the preceding section.

**Sec. 11. Annual Tax on Title Insurance Premiums.** Annually each title insurance company shall pay on or before March 31, a tax of one per cent of the amount of gross title insurance premiums received by it including as premiums income received from guaranteed certificates of title and other guarantees of title during the preceding calendar year covering property in this state, as shown by its annual statement to the commissioner.

**Sec. 12. Examination by Commissioner.**

(1) The Commissioner is authorized to examine the books, accounts, assets and title plants of a company authorized to write title insurance hereunder to satisfy himself that there has been no impairment of capital and that such company has complied with the provisions of this Act.

(2) If the Commissioner finds that there is an impairment of capital or that the company is not complying with the provisions of this Act, he shall give notice to such company to correct its capital structure so as to remove the impairment or to comply with the provisions of this Act. If within thirty days such company has failed to comply with such notice or has refused to permit an examination, the Commissioner may

revoke the certificate of authority issued to such company authorizing it to do business in this state until such time as the company shall have fully complied with the orders of the commissioner and the provisions of this Act.

**Sec. 13. Expenses of Examination.** The Commissioner shall collect from the company the reasonable expenses of the commissioner and the compensation and reasonable expenses of the person or persons appointed to examine the company, and failure or refusal to pay such expenses and compensation shall constitute cause for revocation of the certificate of authority issued to such company.

**Sec. 14. Fine or Injunction for Doing Business During Suspension of Certificate; Reinstatement.**

(1) Any corporation continuing to do title insurance business after revocation of its certificate of authority to do business and while in default under this chapter shall be liable in addition to any other civil or criminal liability to a fine of \$50.00 for each day of such default. Such fine may be recovered by an action to be instituted by the Attorney General in the name of the state. The corporation may be enjoined from doing such business until payment of the fine is fully made and notice thereof given to the commissioner.

(2) Upon payment of such fine to the State and full compliance in all other respects with the laws of this State, the certificate of authority shall be reinstated and such corporation shall be permitted to resume its business.

**Sec. 15. Application of Act.** This Act relates only to the business of insuring or guaranteeing titles to real property.

**Sec. 16. Penalties.** Any officer, director, agent or employee of any such company who, before obtaining a certificate of authority from the Commissioner or after a revocation thereof by the Commissioner and while in default under this Act shall issue any policy of title insurance or certificate of title on property in this state, or who shall engage in title insurance business in this state, shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed \$2,500.00, or imprisonment not

to exceed one year or both.

**Sec. 17. Definition of Commissioner.** Whenever in this Act the word "Commissioner" is used it shall refer to the Commissioner of Insurance of the State of Alaska or his successor.

**Sec. 18.** Sec. 42-1-4 ACLA 1949 as amended by Ch. 132 SLA 1953 is hereby amended to read as follows:

**Sec. 42-1-4. Classes and Kinds of Insurance.** The various kinds of insurance are classified, and unless the content requires otherwise, each includes insurance as follows:

(a) Fire Insurance. Upon buildings and other property against loss or damage by fire, lightning, wind storms, cyclones, tornadoes, hail or earthquakes, water from the breakage or leakage of sprinklers, pumps or other apparatus erected for extinguishing fires, and water pipes; and against loss or damage arising from the prevention or suspension of rent or use and occupation of any building, plant or manufacturing establishment, due to the hazard or peril against which the insurance is carried;

(b) Marine Insurance. Being ocean and inland risks, and transportation, but not including any other casualty insurance as hereinafter provided.

(c) Life insurance. Being all forms of life, endowments, and annuities, but not including health, accident or sickness insurance or any other casualty insurance as hereinafter provided.

(d) Accident and liability insurance. Accident insurance, and either sickness or health insurance, being insurances against injury, disablement or death resulting from travel or general accident, and against disablement resulting from sickness; and every insurance appertaining thereto; liability insurance being all insurance against loss or damage, resulting from accident to, or injury, fatal or non-fatal, suffered by, an employee or other person and for which the insurer is liable;

(e) Fidelity and surety insurance.

Being the guaranteeing of persons holding places of public and private trust; guaranteeing the performance of contracts other than insurance policies; or guaranteeing and executing all bonds, undertakings and contracts of suretyship.

(f) **Motor vehicle insurance.** Being insurance on motor vehicles operated by power generated within or upon such vehicles, except those operating on water or on rails, against any or all loss, expense and liability, including an obligation of the insurer to pay medical, hospital, surgical and disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons who are killed, irrespective of legal liability of the insured, resulting from the ownership, maintenance or use of a motor vehicle.

(g) **Title insurance.** Being insurance against loss from defective titles to real property, including leases.

(h) **Miscellaneous Insurance.** Being insurance on any risk not included within or under either of the foregoing classes, and which is a proper subject for insurance, not prohibited by law or contrary to sound public policy.

Sec. 19. Subsection (m) of Section 34-3-5, ACLA 1949, is hereby amended to read as follows;

(m) (Examination and guaranty of real estate titles.) To examine titles to real estate, to procure and furnish information in relation thereto, and to guarantee or insure the title to real estate to persons interested in such real estate or in mortgages thereon, against loss, by reason of defective title or other encumbrances of or upon such real estate, provided, that any company organized under this Act shall be subject to the insurance law of the State of Alaska, insofar as it pertains to its title insurance activities and operations, except that securities deposited by such company pursuant to Section 34-3-4 ACLA 1949 shall be credited to and included in the total of the guaranty fund of such company required by such insurance law, unless demand for the full statutory amounts, under both the title insurance and the trust company laws, is made by the Commissioner of Commerce and the Insurance Commissioner, and provided further, that no trust company engaged in the business of banking in the State of Alaska, whether such trust company shall have been organized under the laws of the State of Alaska, or otherwise, shall be permitted to do any of the Acts mentioned in this subsection;

Sec. 20. **Effective Date.** This Act shall take effect immediately upon its passage and approval or upon its becoming law without such approval.

Approved April 28, 1959

## CHAPTER 127

### AN ACT

**Amending Chapter 87, SLA 1957, relating to mental health; and providing for an effective date.**

(H.B. 184)

**Be it enacted by the Legislature of the State of Alaska:**

Section 1. Section 101 (1) of Chapter 87, SLA 1957 is hereby amended to read as follows:

Sec. 101 (1) "Mentally ill individual" means an individual having a psychosis or senile changes which substantially impair his mental health to the degree

that he is a danger to himself or others; excluding acute alcoholism or drug addiction.

Sec. 2. Section 101 (o) of Chapter 87, SLA 1957 is hereby amended to read as follows:

Sec. 101 (o) "Resident of Alaska" means a person who has been physically present and lived continuously in