

HOUSE BILL NO. 527

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

Introduced: 2/23/96

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to insurance for wrap-up construction projects."

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

3 * **Section 1.** PURPOSE. The purpose of this Act is to establish minimum standards for
4 an insurer who issues wrap-up construction insurance to ensure that the rating system applied
5 to wrap-up construction insurance is not unfairly discriminatory, and to ensure the integrity
6 of wrap-up construction insurance statistical reporting in this state.

7 * **Sec. 2.** AS 21.39 is amended by adding new sections to read:

8 Sec. 21.39.185. WRAP-UP CONSTRUCTION INSURANCE RATE FILINGS.

9 An insurer who proposes to provide coverage for a wrap-up construction project shall,
10 for each project, file with the director the policy form, endorsements, and safety plan
11 for the rating system that it proposes to use for that project, and receive approval from
12 the director before binding coverage for the project. The filing must satisfy
13 requirements established by the director by regulation and must document compliance
14 with the standards under AS 21.39.190 - 21.39.210.

15 Sec. 21.39.190. REQUIRED PROVISIONS. (a) An insurer may only provide

1 a wrap-up construction policy

2 (1) for a construction project that has a written contract identifying the
3 scope of the project, the project's specific beginning and completion points, and
4 providing that the general contractor shall indemnify and hold harmless any
5 subcontractor for losses in excess of the general contractor's applicable liability
6 insurance;

7 (2) if the construction project is insured by one or more insurers under
8 the same management;

9 (3) if the policy insures two or more legal entities engaged in a
10 construction project;

11 (4) if the policy insures only the general contractor and subcontractors
12 performing work under a written contract that does not reflect the cost of insuring the
13 construction project, except the policy may provide coverage for a person who
14 contracts with a general contractor, if the contract between the person and the general
15 contractor does not reflect the cost of insuring the construction project;

16 (5) for a construction project that insures all subcontractors on the job
17 site, except that the policy may exclude commercial liability coverage for
18 subcontractors engaged in environmental cleanup operations; and

19 (6) for a construction project that has a written safety plan acceptable
20 to the director.

21 (b) An insurance policy written for a wrap-up construction project must

22 (1) limit coverage to the wrap-up construction project's job site;

23 (2) make the wrap-up construction coverage primary over any other
24 coverage available to the subcontractor; and

25 (3) make the person procuring the insurance solely responsible for the
26 payment of premiums or loss reimbursement amounts, the sole beneficiary of return
27 premiums or dividends, and the person with the authority to change or cancel the
28 policy.

29 (c) Workers' compensation coverage written as part of a wrap-up construction
30 policy must be either

31 (1) retroactively rated using a plan filed by the National Council of

1 Compensation Insurance and approved by the division under AS 21.39.040 as of the
2 effective date of the program's coverage; or

3 (2) written on a loss reimbursement basis using a form and rating
4 system approved by the division under AS 21.39.040 as of the effective date of the
5 coverage.

6 (d) An insurer that issues a wrap-up construction policy that includes workers'
7 compensation coverage must issue to each subcontractor an individual workers'
8 compensation policy that

9 (1) uses standard National Council of Compensation Insurance
10 classifications;

11 (2) uses each individual subcontractor's

12 (A) claim experience;

13 (B) experience rating date;

14 (C) anniversary rating date; and

15 (D) actual payroll to calculate the final premium.

16 (e) An insurer issuing a policy described under (d) of this section shall report
17 to the National Council on Compensation Insurance, as the state's designated statistical
18 agent, each subcontractor's actual payroll, premium, and losses.

19 (f) A wrap-up construction policy that includes workers' compensation
20 coverage or commercial liability coverage must be written on an occurrence basis and
21 have per claim, per occurrence, and aggregate limits adequate to protect each
22 subcontractor from any foreseeable claim that could arise out of the wrap-up
23 construction project.

24 Sec. 21.39.200. PROHIBITED PROVISIONS. (a) Schedule rating or
25 individual risk modifications may not be used for workers' compensation coverage
26 written as part of a wrap-up construction policy.

27 (b) A wrap-up construction policy may not

28 (1) provide open-ended coverage;

29 (2) exclude coverage for particular subcontractors except as provided
30 under AS 21.39.190(a)(5);

31 (3) provide coverage for maintenance or other nonconstruction work

1 except as incidental to the construction project.

2 Sec. 21.39.210. OPTIONAL PROVISIONS. A wrap-up construction policy
3 may

4 (1) cover multiple locations if the construction work among the
5 locations is similar; or

6 (2) combine retroactive premium calculations for workers'
7 compensation coverage and commercial liability coverage issued by an admitted
8 insurer.

9 Sec. 21.39.220. DEFINITIONS. In AS 21.39.185 - 21.39.220,

10 (1) "construction project" means a project involving construction,
11 erection, or demolition and having a definable completion point;

12 (2) "contractor controlled insurance" means a wrap-up construction
13 policy procured by the general contractor of a construction project;

14 (3) "general contractor" has the meaning given in AS 08.18.171 and
15 includes an owner or principal acting as a general contractor;

16 (4) "owner controlled insurance" means a wrap-up construction policy
17 procured by the owner of a construction project;

18 (5) "schedule rating" means application of judgment credits and debits
19 to the risk rate or premium charge that has been developed through the use of a base
20 rate or class rate;

21 (6) "wrap-up construction policy" means a policy that provides
22 coverage for a person involved in a construction project and includes owner controlled
23 insurance and contractor controlled insurance;

24 (7) "wrap-up construction project" means a construction project for
25 which a wrap-up construction policy is written or proposed to be written.