

**CS FOR HOUSE BILL NO. 378(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/6/00

Referred: Judiciary, Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act eliminating certain taxes under AS 21.09 on premiums from the sale of  
2 workers' compensation insurance; relating to the establishment of, assessment of,  
3 collection of, and accounting for service fees for state administration of workers'  
4 compensation and workers' safety programs; establishing civil penalties and  
5 sanctions for late payment or nonpayment of the service fee; and providing for  
6 an effective date."

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

8 \* **Section 1.** AS 21.09.150(a) is amended to read:

9 (a) The director may suspend or revoke an insurer's certificate of authority if,  
10 after a hearing, the director finds that the insurer has violated a lawful order of the  
11 director or a provision of this title other than those for which suspension or revocation  
12 is mandatory **or has not paid any annual service fees assessed under AS 23.05.067.**

13 \* **Sec. 2.** AS 21.09.210(b) is amended to read:

1 (b) Each insurer, and each formerly authorized insurer with respect to  
 2 premiums received while an authorized insurer in this state, shall pay a tax on the total  
 3 direct premium income received during the year ending on the preceding December 31  
 4 and paid for the insurance of property or risks resident or located in the state, other  
 5 than wet marine and transportation insurance **or workers' compensation insurance**,  
 6 after deducting from the total direct premium income the applicable cancellations,  
 7 returned premiums, the unabsorbed portion of any deposit premium, all policy  
 8 dividends, unabsorbed premiums refunded to policyholders, refunds, savings, savings  
 9 coupons, and other similar returns paid or credited to policyholders with respect to  
 10 their policies. Deductions may not be made of cash surrender value of policies.  
 11 Considerations received on annuity contracts are not included in the direct premium  
 12 income and are not subject to tax. The tax shall be paid to the director at least  
 13 annually but not more often than once each quarter on the dates specified by the  
 14 director. The method of payment must be by the electronic or other payment method  
 15 specified by the director. Except as provided under (m) of this section, the tax is  
 16 computed at the rate of

17 (1) for domestic and foreign insurers, except hospital and medical  
 18 service corporations, 2.7 percent;

19 (2) for hospital and medical service corporations, six percent of their  
 20 gross premiums less claims paid.

21 \* **Sec. 3.** AS 21.09.210(e) is amended to read:

22 (e) Payment to the director by an insurer of the tax upon its premiums required  
 23 by this section shall be in lieu of all other taxes imposed by the state upon premiums,  
 24 franchise, privilege, or other taxes measured by income of the insurer commencing  
 25 with the taxable year beginning January 1, 1967. **Payment by an insurer of the**  
 26 **annual service fee under AS 23.05.067 shall be in lieu of all taxes imposed by the**  
 27 **state on workers' compensation premiums, franchise, privilege, or other taxes**  
 28 **measured by the workers' compensation income of the insurer.**

29 \* **Sec. 4.** AS 21.09.210(n) is amended by adding a new paragraph to read:

30 (2) "workers' compensation insurance" has the meaning given in  
 31 AS 21.12.070(a)(3).

1 \* **Sec. 5.** AS 21.09.270(b) is amended to read:

2 (b) This section does not apply to

3 (1) personal income taxes, or to ad valorem taxes on real or personal  
4 property or to special purpose obligations or assessments imposed by another state in  
5 connection with particular kinds of insurance other than property insurance, [;] except  
6 that deductions from premium taxes or other taxes otherwise payable allowed on  
7 accounts of real estate or personal property taxes paid shall be taken into consideration  
8 by the director in determining the propriety and extent of retaliatory action under this  
9 section; [OR]

10 (2) a health care insurer who issues health care insurance to the state,  
11 a municipality, a city or borough school district, a regional educational attendance area,  
12 the University of Alaska, or a community college operated by the University of  
13 Alaska; in this paragraph, "health care insurer" has the meaning given in  
14 AS 21.54.500; or

15 (3) the annual service fees assessed under AS 23.05.067.

16 \* **Sec. 6.** AS 23.05 is amended by adding a new section to read:

17 **Sec. 23.05.067. Service fees for administration of workers' safety and**  
18 **compensation programs.** (a) Each insurer providing workers' compensation  
19 insurance and each employer who is self-insured or uninsured for purposes of  
20 AS 23.30 in this state shall pay an annual service fee to the department for the  
21 administrative expenses of the state for workers' safety programs under AS 18.60 and  
22 the workers' compensation program under AS 23.30. Except as provided in (b) of this  
23 section, the fee shall be paid each year to the department at the time that the annual  
24 report is required to be filed under AS 23.30.155(m) or (n). The service fee is 2.6  
25 percent of all payments reported to the Alaska Workers' Compensation Board under  
26 AS 23.30.155(m) or (n).

27 (b) An insurer or an employer who is required to pay an annual service fee  
28 under (a) of this section may elect to pay in yearly increments over a five-year period  
29 the portion of the service fee due under (a) of this section as a result of a settlement  
30 of over \$50,000 approved under AS 23.30.012. An election under this subsection must  
31 be made in the first year that a service fee would be due as a result of the settlement.

1 The insurer or the employer shall notify the department of an election under this  
2 subsection. If an election is made, payment of each yearly increment that is due shall  
3 be made at the time the annual report is required to be filed under AS 23.30.155(m)  
4 or (n).

5 (c) Payment of the annual service fee under this section shall be made in the  
6 manner and by the method specified by the department.

7 (d) If an insurer or employer who is required to pay an annual service fee  
8 under this section does not pay the required amount of the service fee by the time  
9 specified in this section, the insurer or employer shall pay a civil penalty of \$100 for  
10 the first day the payment is late and \$10 a day for each additional day the payment is  
11 late. The civil penalty under this subsection is in addition to any civil penalties  
12 imposed for late filings of reports under AS 23.30.155(m).

13 (e) Annual service fees and civil penalties collected under this section shall be  
14 deposited in the workers' safety and compensation administration account in the state  
15 treasury. Under AS 37.05.146(b), the service fees and civil penalties shall be  
16 accounted for separately, and appropriations from the account are not made from the  
17 unrestricted general fund. The legislature may appropriate money from the account  
18 for expenditures by the department for necessary costs incurred by the department in  
19 the administration of the workers' safety programs contained in AS 18.60 and of the  
20 Alaska Workers' Compensation Act contained in AS 23.30. Nothing in this subsection  
21 creates a dedicated fund or dedicates the money in the account for a specific purpose.  
22 Money deposited in the account does not lapse at the end of a fiscal year unless  
23 otherwise provided by an appropriation.

24 (f) The department may adopt regulations to implement and interpret this  
25 section.

26 (g) Notwithstanding AS 21.76.020(a), a joint insurance arrangement established  
27 under AS 21.76 is subject to the provisions of this section and regulations adopted  
28 under this section and, if self-insured, shall pay the annual service fee on behalf of its  
29 members.

30 (h) The department shall grant a credit against the service fee imposed under  
31 (a) of this section to an employer if (1) the employer applies to the department for the

1 credit on a form prescribed by the department; (2) the employer provides proof that  
 2 the employer has paid a premium tax imposed under AS 21.09.210 on an insurance  
 3 policy; and (3) workers' compensation claims have been paid under the insurance  
 4 policy described in (2) of this subsection and the claims are subject to the service fee  
 5 imposed under (a) of this section. The credit allowed under this subsection is equal  
 6 to the amount of the premium tax paid by the employer under the insurance policy,  
 7 may not exceed the service fee imposed under (a) of this section, and only applies to  
 8 premium taxes paid by the employer on or after January 1, 2000.

9 (i) In this section, "insurer" has the meaning given in AS 21.90.900.

10 \* **Sec. 7.** AS 23.30.015(e) is amended to read:

11 (e) An amount recovered by the employer under an assignment, whether by  
 12 action or compromise, shall be distributed as follows:

13 (1) the employer shall retain an amount equal to

14 (A) the expenses incurred by the employer **with** [IN] respect to  
 15 the action or compromise, including a reasonable attorney fee determined by  
 16 the board;

17 (B) the cost of all benefits actually furnished by the employer  
 18 under this chapter;

19 (C) all amounts paid as compensation and second-injury fund  
 20 payments, **and all service fees paid under AS 23.05.067;**

21 (D) the present value of all amounts payable later as  
 22 compensation, [(PRESENT VALUE TO BE] computed from a schedule  
 23 prepared by the board; [),] and the present value of the cost of all benefits to  
 24 be furnished later under AS 23.30.095 [(] as estimated by the board; [),] the  
 25 amounts so computed and estimated to be retained by the employer as a trust  
 26 fund to pay compensation and the cost of benefits as they become due and to  
 27 pay any finally remaining excess sum to the person entitled to compensation  
 28 or to the representative; and

29 (2) the employer shall pay any excess to the person entitled to  
 30 compensation or to the representative of that person.

31 \* **Sec. 8.** AS 23.30.090 is amended to read:

1           **Sec. 23.30.090. Self-insurance certificates.** If an employer has complied with  
 2 the provisions of this chapter relating to self-insurance **and has paid annual service**  
 3 **fees assessed under AS 23.05.067**, the board shall issue the employer a certificate **that**  
 4 [WHICH] shall remain in force for a period fixed by the board. The board may, upon  
 5 at least 10 days' notice and a hearing, revoke a self-insurance certificate upon  
 6 satisfactory proof that an employer is no longer entitled to it. After revocation, the  
 7 board may grant a new certificate to an employer, upon the employer's petition and  
 8 satisfactory proof of the employer's financial ability as provided in this chapter. An  
 9 employer authorized as a self-insurer shall provide claims facilities through its own  
 10 staffed adjusting facilities located within the state, or independent, licensed, resident  
 11 adjusters with power to effect settlement within the state.

12 \* **Sec. 9.** AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

13                               (X) workers' safety and compensation administration account  
 14                               (AS 23.05.067);

15 \* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section  
 16 to read:

17           TRANSITION: PHASE-IN OF FEES FOR EMPLOYERS. (a) Notwithstanding the  
 18 amount of the annual service fee set by AS 23.05.067(a), enacted by sec. 6 of this Act, the  
 19 annual service fee equals the following percentages of all payments reported to the Alaska  
 20 Workers' Compensation Board under AS 23.30.155(m) and (n):

- 21                               (1) for payment due in 2001, 3.3 percent;  
 22                               (2) for payment due in 2002, 3.1 percent;  
 23                               (3) for payment due in 2001, 2.9 percent.

24           (b) Notwithstanding the amount of the annual service fee set by AS 23.05.067(a) and  
 25 (b), enacted by sec. 6 of this Act, the state, a political subdivision of the state, a joint  
 26 insurance arrangement authorized under AS 21.76, and other employers who are self-insured  
 27 under AS 23.30.090 shall instead pay an annual service fee of the following amounts in the  
 28 following years:

- 29                               (1) for payment due in 2001, 25 percent of the amount calculated for the  
 30 service fee under AS 23.05.067;  
 31                               (2) for payment due in 2002, 50 percent of the amount calculated for the

1 service fee under AS 23.05.067;

2 (3) for payment due in 2003, 75 percent of the amount calculated for the  
3 service fee under AS 23.05.067; and

4 (4) for payment due in 2004 and subsequent years, 100 percent of the amount  
5 calculated for the service fee under AS 23.05.067.

6 \* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section  
7 to read:

8 **TRANSITION: REGULATIONS.** The director of the division of insurance in the  
9 Department of Community and Economic Development, and the Department of Labor and  
10 Workforce Development, may proceed to adopt regulations necessary to implement or interpret  
11 this Act. Regulations to implement or interpret a provision of this Act take effect under  
12 AS 44.62 (Administrative Procedure Act), but not before the effective date of secs. 1 - 9 of  
13 this Act.

14 \* **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section  
15 to read:

16 **TRANSITION: COLLECTION AND REFUND OF PREMIUM TAX.**

17 Notwithstanding AS 21.09.210, the director of the division of insurance shall

18 (1) beginning July 1, 2000, cease collecting quarterly premium taxes on  
19 workers' compensation insurance; and

20 (2) subject to appropriation, refund premium taxes collected for workers'  
21 compensation insurance under AS 21.09.210 if the refund is required as a result of the  
22 application of the provisions of this Act.

23 \* **Sec. 13.** Sections 11 and 12 of this Act take effect immediately under AS 01.10.070(c).

24 \* **Sec. 14.** Except as provided in sec. 13 of this Act, this Act takes effect January 1, 2001.