

**HOUSE CS FOR CS FOR SENATE BILL NO. 191(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 5/10/02

Referred: Rules

Sponsor(s): SENATORS TAYLOR, Austerman, Cowdery, Olson, Leman

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to insurance pooling by air carriers."**

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

3 \* **Section 1.** AS 21 is amended by adding a new chapter to read:

4 **Chapter 77. Joint Aviation Insurance Arrangements.**

5 **Sec. 21.77.010. Authority to establish joint aviation insurance**  
6 **arrangements.** (a) Air carriers may enter into cooperative agreements with each  
7 other for the purpose of establishing, operating, or participating in joint aviation  
8 insurance arrangements through which the participating members agree to pool  
9 contributions in order to either assume risks from losses to the participants on a group  
10 basis or purchase coverage for the participants on a group basis.

11 (b) A joint aviation insurance arrangement

12 (1) may be for any kind of insurance defined by this title except for  
13 health insurance, life insurance, and title insurance; and

14 (2) shall be considered an alternative or supplement to any other policy  
15 or contract of insurance authorized or required by law, including insurance under

1 AS 21.75.

2 (c) For purposes of AS 23.30.075, a joint aviation insurance arrangement is  
3 considered to be an association duly authorized to transact workers' compensation  
4 insurance in the state.

5 **Sec. 21.77.020. Regulation by division of insurance, notice, and annual**  
6 **report.** (a) A joint aviation insurance arrangement may not be considered insurance  
7 for the purpose of any other law of the state and is not subject to regulations adopted  
8 by the director.

9 (b) Before an air carrier signs a cooperative agreement, the joint aviation  
10 insurance arrangement shall notify the air carrier in writing that the joint aviation  
11 insurance arrangement is not licensed in this state, is not subject to this state's  
12 supervision, and, in the event of the insolvency of the joint aviation insurance  
13 arrangement, losses will not be covered under AS 21.80 (Alaska Insurance Guaranty  
14 Association Act).

15 (c) By October 1 of each year, the administrator of a joint aviation insurance  
16 arrangement shall prepare and deliver to the Legislative Budget and Audit Committee  
17 and the director a report showing the true and correct financial condition of the joint  
18 aviation insurance arrangement. The report must

19 (1) be attested to by the administrator and the board of directors;

20 (2) include an analysis, certified by a member of the American  
21 Academy of Actuaries, of the sufficiency of the loss reserves; and

22 (3) be certified by a certified public accountant.

23 **Sec. 21.77.030. General provisions of cooperative agreements.** (a) A  
24 cooperative agreement must provide for the proper operation of the joint aviation  
25 insurance arrangement and include provisions for

26 (1) administration of the arrangement by a board of directors,  
27 specifying the number of members of the board and other requirements necessary for  
28 the proper functioning of the board;

29 (2) appointment of an administrator and other persons as necessary for  
30 the proper functioning of the arrangement;

31 (3) organization of the arrangement, including a roster of participating

1 members and the names of the members of the board of directors;

2 (4) procedures to establish and promote an aggressive risk  
3 management program among the members of the arrangement, including procedures  
4 for identifying and reducing the risks that can be reduced through implementing better  
5 safety technologies and improved work techniques and procedures;

6 (5) enforcing the collection of contributions or payments in default  
7 from members of the arrangement;

8 (6) the addition of new members to the arrangement or the withdrawal  
9 of members from the arrangement;

10 (7) the method of apportioning costs and disposition of excess  
11 contributions;

12 (8) transmission of financial statements and audit reports of the  
13 arrangement to participating members;

14 (9) terminating the arrangement and disposing of its assets; and

15 (10) establishing and administering a joint aviation insurance fund.

16 (b) A cooperative agreement may

17 (1) authorize the board of directors to enter into contracts for services  
18 necessary to perform the functions of a joint aviation insurance arrangement; a person  
19 contracting to perform functions under this paragraph is subject to the licensing  
20 requirements of this title;

21 (2) delegate to the board of directors, or authorize delegation by the  
22 board to another person or group, the power to compromise, arbitrate, or otherwise  
23 settle claims on behalf of the arrangement;

24 (3) authorize the board of directors to adopt rules not inconsistent with  
25 law for the fair and equitable administration of the joint aviation insurance  
26 arrangement and the joint aviation insurance fund.

27 (c) The board of directors shall file a copy of the cooperative agreement with  
28 the director at least 60 days before the effective date of the agreement. The agreement  
29 shall be available for public inspection.

30 (d) A cooperative agreement may not take effect unless a casualty actuary who  
31 is a member of the American Academy of Actuaries determines that the reserves for

1 losses of the joint aviation insurance arrangement are actuarially sound.

2 **Sec. 21.77.040. Financial provisions of agreements.** (a) A joint aviation  
3 insurance arrangement formed in accordance with the provisions of this chapter shall

4 (1) have and maintain a surplus no less than an amount equal to the  
5 total of the capital and one-half of the surplus that would be required of a domestic  
6 stock insurer writing the same lines as the joint aviation insurance arrangement; or

7 (2) post a bond for an amount equal to the capital that would be  
8 required of a domestic stock insurer writing the same lines of insurance as the joint  
9 aviation insurance arrangement and maintain a surplus of \$500,000 in admitted assets  
10 or a surplus sufficient to operate the joint aviation insurance arrangement for one year,  
11 whichever is greater.

12 (b) A cooperative agreement must include a provision requiring an annual  
13 determination by a casualty actuary who is a member of the American Academy of  
14 Actuaries that procedures for establishing reserves for losses of the joint aviation  
15 insurance arrangement are actuarially sound.

16 (c) A joint aviation insurance arrangement shall be subject to an annual  
17 independent audit. The audit shall be conducted in accordance with generally  
18 accepted auditing standards and must include a review of the actuarial assumptions  
19 used for establishing the reserves under (b) of this section. The audit report must  
20 include certification from a casualty actuary who is a member of the American  
21 Academy of Actuaries that the actuarial assumptions continue to be sound and the  
22 level of the reserves is adequate.

23 (d) A cooperative agreement may authorize the board of directors to purchase  
24 excess or catastrophic insurance on behalf of the joint aviation insurance arrangement.  
25 The cost of the insurance shall be apportioned in the manner specified in the joint  
26 aviation insurance agreement. The board may purchase insurance under this  
27 subsection only from an insurer authorized to do business in the state, except  
28 insurance under this subsection may be purchased from a risk-sharing pool established  
29 by a national association of similar entities if the risk-sharing pool meets the  
30 qualifications for an unauthorized insurer under AS 21.34.040(b) and (d) and  
31 21.34.220 and has capital and policyholders surplus in an amount at least as great as

1 would be required if the association were a domestic multiple line insurer. An  
 2 arrangement may purchase insurance under this subsection for property and liability  
 3 risks from unauthorized insurers allowed for use by licensed Alaska surplus lines  
 4 brokers.

5 **Sec. 21.77.050. Joint aviation insurance fund.** (a) A joint aviation  
 6 insurance arrangement shall establish a joint aviation insurance fund. The fund  
 7 consists of money

8 (1) contributed by members of the joint aviation insurance  
 9 arrangement through budgetary appropriations or transfers from a self-insurance  
 10 reserve;

11 (2) contributed by officers and employees of members of the joint  
 12 aviation insurance arrangement under an employee benefit plan; and

13 (3) collected by the joint aviation insurance arrangement through  
 14 subrogation of a claim paid from the fund to a member of the arrangement.

15 (b) An expenditure may be made from a joint aviation insurance fund only to

16 (1) pay claims, losses, or benefits, including interest on claims, losses,  
 17 or benefits, and the administrative and adjustment expenses incurred in connection  
 18 with claims, losses, or benefits, involving the types of protection for which the fund  
 19 provides coverage as specified in the joint aviation insurance agreement; and

20 (2) purchase insurance coverage for members of a joint aviation  
 21 insurance arrangement on a group basis.

22 (c) The administrator shall keep the fund separate from other funds of a  
 23 member of a joint aviation insurance arrangement.

24 (d) For each type of protection offered by the joint aviation insurance  
 25 arrangement, the method of accounting must show the order, source, date, and amount  
 26 of each payment from the fund.

27 (e) Within 150 days of the end of the fiscal year, the administrator shall  
 28 furnish a detailed report of the operation and condition of the fund to the board of  
 29 directors and the director.

30 (f) Money held by a fund as reserves and money not needed for daily  
 31 operations may be invested by the board of directors.

1 (g) A fund may not be terminated unless the administrator certifies that an  
2 amount of money sufficient to pay accrued and contingent expenditures has been  
3 placed in a fully collateralized escrow account.

4 **Sec. 21.77.250. Definitions.** In this chapter,

5 (1) "adjustment expenses" means expenses for investigative,  
6 processing, legal, actuarial, arbitration, and settlement services incurred in the  
7 adjustment of losses, claims, or benefits;

8 (2) "administrator" means a person or group appointed by the board of  
9 directors to administer a joint aviation insurance arrangement or a joint aviation  
10 insurance fund;

11 (3) "board" or "board of directors" means the board of directors  
12 provided for in a cooperative agreement;

13 (4) "cooperative agreement" means a written agreement entered into  
14 by two or more air carriers described in AS 21.77.010 for the purpose of establishing,  
15 operating, or participating in a joint aviation insurance arrangement;

16 (5) "fund" or "joint aviation insurance fund" means a fund established  
17 under AS 21.77.050;

18 (6) "joint aviation insurance arrangement" means a joint aviation  
19 insurance arrangement authorized under AS 21.77.010.