

CS FOR SENATE BILL NO. 191(JUD) am H
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Amended: 5/13/02

Offered: 5/6/01

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to insurance pooling by air carriers; amending the definition of group**
2 **health insurance, and allowing the Department of Administration to obtain a policy or**
3 **policies of group health care insurance for employers that are small businesses,**
4 **nonprofit organizations, special services organizations, or small associations for**
5 **insurance purposes; and providing for an effective date."**

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

7 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 FINDINGS AND INTENT. (a) Concerning secs. 2, 4, and 5 of this Act, the
10 legislature has made the following findings regarding the facts that support a group insurance
11 policy for qualified entities:

12 (1) the latest United States Census data indicate that 19 percent of Alaskans
13 are uninsured;

1 (2) in 2000, about 700 companies were licensed to offer health insurance in
 2 the state, about 250 companies wrote some form of health insurance in the state, and fewer
 3 than 114,000 Alaskans were covered under individual and group comprehensive health
 4 insurance policies written in the state;

5 (3) in 2000, 18 insurers wrote small employer health insurance in the state; 80
 6 percent of small group policies are written by three health insurers;

7 (4) small businesses are having problems finding and keeping adequate
 8 insurance coverage for employees;

9 (5) nonprofit and special services organizations are having problems finding
 10 and keeping adequate insurance coverage for employees;

11 (6) nonprofit and special services organizations provide many services that
 12 government cannot supply; and

13 (7) adequate and stable health insurance is important to Alaskans;

14 (b) It is the intent of the legislature that secs. 2, 4, and 5 of this Act assist in providing
 15 access to adequate and stable health insurance for small businesses, nonprofit organizations,
 16 and special services organizations.

17 (c) The Department of Administration, in procuring the policy or policies permitted
 18 by secs. 2, 4, and 5 of this Act, should explore all options, including preferred provider
 19 organizations and lower cost options such as limited benefit and high deductible coverage.

20 * **Sec. 2.** AS 21.54.060 is amended by adding a new paragraph to read:

21 (7) under a policy or policies issued under AS 39.30.097.

22 * **Sec. 3.** AS 21 is amended by adding a new chapter to read:

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

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

30 (b) A joint aviation insurance arrangement

31 (1) may be for any kind of insurance defined by this title except for

1 health insurance, life insurance, and title insurance; and

2 (2) shall be considered an alternative or supplement to any other policy
3 or contract of insurance authorized or required by law, including insurance under
4 AS 21.75.

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

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

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

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

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

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

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

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

29 (1) administration of the arrangement by a board of directors,
30 specifying the number of members of the board and other requirements necessary for
31 the proper functioning of the board;

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

3 (3) organization of the arrangement, including a roster of participating
4 members and the names of the members of the board of directors;

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

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

11 (6) the addition of new members to the arrangement or the withdrawal
12 of members from the arrangement;

13 (7) the method of apportioning costs and disposition of excess
14 contributions;

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

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

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

19 (b) A cooperative agreement may

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

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

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

30 (c) The board of directors shall file a copy of the cooperative agreement with
31 the director at least 60 days before the effective date of the agreement. The agreement

1 shall be available for public inspection.

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.

20 * **Sec. 4.** AS 39.30 is amended by adding a new section to read:

21 **Sec. 39.30.097. Procurement of group health care insurance policies for**
 22 **qualified entities.** (a) The department may obtain a health care insurance policy or
 23 policies to cover a group of qualified entities.

24 (b) In procuring a health care insurance policy or policies under this section,
 25 the commissioner of administration shall comply with the procedure for obtaining
 26 policies of insurance under AS 39.30.090(a)(4) and (5).

27 (c) A qualified entity is eligible for coverage under (a) of this section if the
 28 qualified entity

29 (1) submits a written request for registration to the department; and

30 (2) receives written confirmation from the commissioner of
 31 administration that the qualified entity is registered to participate.

1 (d) The request for registration submitted by a qualified entity under (c) of this
 2 section must contain a statement certifying that the entity meets the definition of a
 3 qualified entity under this section and that the entity agrees to pay the required
 4 premiums to the insurance company. The owner, a principal, or another legally
 5 qualified representative of the entity shall sign the statement under penalty of unsworn
 6 falsification and fraud. The department shall register an entity that submits a request
 7 for registration and meets the requirements of this subsection. The department shall
 8 maintain a list of entities registered to participate under this section and shall make the
 9 list available for public inspection.

10 (e) The department may not procure benefits under this section by means of
 11 self-insurance.

12 (f) In this section,

13 (1) "association for insurance purposes" means an association

14 (A) composed of businesses or nonprofit organizations or both;

15 and

16 (B) organized and operating in Alaska;

17 (2) "business" means a business

18 (A) located in Alaska;

19 (B) organized under the relevant provisions of the Alaska
 20 Statutes; if the form of business is not required to be organized under a statute,
 21 then the sole proprietor or joint venturers who own the business must be
 22 Alaska residents; and

23 (C) that employed an average of at least two but not more than
 24 50 eligible employees on the business days during the preceding calendar year
 25 and employs at least two eligible employees on the first day of a health benefit
 26 plan;

27 (3) "department" means the Department of Administration;

28 (4) "employee" has the meaning given in AS 21.54.500;

29 (5) "health care insurance" has the meaning given in AS 21.12.050;

30 (6) "nonprofit organization" means a nonprofit corporation,
 31 association, club, or society organized and operating in Alaska exclusively for

1 charitable, religious, scientific, or educational purposes or for the promotion of social
2 welfare and that has received an exemption from the payment of federal income tax;

3 (7) "policy" has the meaning given in AS 21.90.900;

4 (8) "qualified entity" means a business, nonprofit organization,
5 association for insurance purposes, or special services organization;

6 (9) "special services organization" means an entity, corporation, or
7 nonprofit organization organized and operating in Alaska that is

8 (A) an entity, including a sole proprietorship and a corporation
9 solely owned by one person,

10 (i) operating a child care facility that is licensed under
11 AS 14.37;

12 (ii) operating a residential child care facility, child
13 placement agency, foster home, or maternity home that is licensed
14 under AS 47.35;

15 (iii) operating an assisted living home that is licensed
16 under AS 47.33;

17 (iv) operating a community-based center for adult day
18 care as that term is defined in AS 47.65.290; or

19 (v) providing home care services as defined in
20 AS 47.65.290;

21 (B) a corporation incorporated under AS 10.20 that

22 (i) receives state grants to provide services; or

23 (ii) makes grants to other corporations incorporated
24 under AS 10.20 that receive state grants to provide services; or

25 (C) a nonprofit organization, regardless of whether
26 incorporated, whose primary purpose is to provide assistance to disadvantaged
27 classes or groups;

28 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 INITIAL COST RECOVERY. The commissioner of administration shall recover the
31 initial administrative costs of procuring group health care insurance policies as provided in

1 AS 39.30.097, added by sec. 4 of this Act, over a period of five years. The commissioner
2 shall fairly allocate the administrative costs among the qualified entities seeking coverage
3 under AS 39.30.097 based on the numbers of persons covered. The commissioner shall
4 distribute the administrative costs recovered pro rata to the funds from which initial funding
5 was made.

6 * **Sec. 6.** This Act takes effect July 1, 2002.