

CS FOR SENATE BILL NO. 191(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/6/01

Referred: Finance

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

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

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

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

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

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

1 brokers.

2 **Sec. 21.77.050. Joint aviation insurance fund.** (a) A joint aviation
3 insurance arrangement shall establish a joint aviation insurance fund. The fund
4 consists of money

5 (1) contributed by members of the joint aviation insurance
6 arrangement through budgetary appropriations or transfers from a self-insurance
7 reserve;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (6) "joint aviation insurance arrangement" means a joint aviation
16 insurance arrangement authorized under AS 21.77.010.