

HOUSE BILL NO. 540

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Introduced: 3/22/04

Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to workers' compensation insurance rates; and providing for an
2 effective date."

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

4 * **Section 1.** AS 21.39.030(a) is amended to read:

5 (a) Rates, including loss costs under AS 21.39.043 or another provision of
6 law, and assigned risk pool rates under AS 21.39.155, shall be made in accordance
7 with the following provisions:

- 8 (1) rates shall not be excessive, inadequate, or unfairly discriminatory;
9 (2) consideration shall be given to past and prospective loss experience
10 inside and outside this state; to the conflagration and catastrophe hazards; to a
11 reasonable margin for underwriting profit and contingencies; to dividends, savings, or
12 unabsorbed premium deposits allowed or returned by insurers to their policyholders,
13 members, or subscribers; to past and prospective expenses both countrywide and those
14 specially applicable to this state; and to all other relevant factors inside and outside

1 this state;

2 (3) the systems of expense provisions included in the rates for use by
3 an insurer or group of insurers may differ from those of other insurers or group of
4 insurers to reflect the requirements of the operating methods of the insurer or group of
5 insurers with respect to any kind of insurance, or with respect to a subdivision or
6 combination thereof for which subdivision or combination separate expense provisions
7 are applicable;

8 (4) risks may be grouped by classifications for the establishment of
9 rates and minimum premiums; classification rates may be modified to produce rates
10 for individual risks in accordance with rating plans that establish standards for
11 measuring variations in hazards or expense provisions, or both; the standards may
12 measure any differences among risks that can be demonstrated to have a probable
13 effect upon losses or expenses;

14 (5) in the case of fire insurance rates, consideration may be given to
15 the experience of the fire insurance business during a period of not more than the most
16 recent five-year period for which experience is available;

17 (6) when there is an established program to inspect new and existing
18 dwellings and the program has been certified by the director as likely to reduce the
19 incidence of fires in inspected dwellings, then in any rate plan used in this state,
20 dwellings that have been found by the inspection to meet the standards established by
21 the program shall have credits applied to the rate in amounts approved by the director.

22 * **Sec. 2.** AS 21.39.040(d) is amended to read:

23 (d) Subject to the exception specified in (e) of this section **and to workers'**
24 **compensation loss cost filings by a licensed rating organization under**
25 **AS 21.39.043**, each filing shall be on file for a waiting period of 15 days before it
26 becomes effective, which period may be extended by the director for an additional
27 period not to exceed 15 days if the director gives written notice within the waiting
28 period to the insurer or rating organization that made the filing stating that additional
29 time for the consideration of the filing is required. Upon written application by the
30 insurer or rating organization, the director may authorize a filing that the director has
31 reviewed to become effective before the expiration of the waiting period. A filing

1 shall be considered to meet the requirements of this chapter unless disapproved by the
2 director within the waiting period.

3 * **Sec. 3.** AS 21.39 is amended by adding a new section to read:

4 **Sec. 21.39.043. Workers' compensation loss cost filings. (a)**

5 Notwithstanding AS 21.39.040, this section applies to all loss cost filings by a licensed
6 rating organization used in the making of workers' compensation rates.

7 (b) On at least an annual calendar year basis, the licensed rating organization
8 shall make a workers' compensation loss cost filing, even if the rating organization
9 determines that no change in the loss costs is indicated.

10 (c) The organization shall submit loss cost filings to the director not less than
11 120 days before the proposed effective date of each filing.

12 (d) At the time a loss cost filing is submitted to the director under (c) of this
13 section, the licensed rating organization shall make available to any member or
14 subscriber that may be affected by the filing a complete copy of the loss cost filing,
15 together with all materials, aggregate data, and other information submitted in support
16 of the filing. The director shall make the loss cost filing and supporting information
17 available for public inspection as soon as possible after receipt by the director.

18 (e) Within 40 days after the date of receipt of a loss cost filing by the director,
19 the director shall conduct a review of the loss cost filing and may submit written
20 interrogatories to the rating organization to ensure that the director has sufficient
21 information to determine whether the filing meets the requirements of this chapter.
22 The rating organization shall respond to the director's interrogatories in writing within
23 10 days unless additional time is allowed by the director. All communications
24 between the director and the rating organization concerning a filing, including the
25 director's interrogatories, the written responses, and all supporting information, are
26 part of the filing record and shall be made available for public inspection as soon as
27 possible after issuance or receipt by the director.

28 (f) The director shall accept comments and supporting information from
29 interested parties regarding the loss cost filing for up to 60 days after the date or
30 receipt of the loss cost filing by the director. The comments shall be limited to matters
31 relevant to a determination of whether the filing's proposed loss costs meet the

1 requirements of this chapter and may include a recommendation for approval,
 2 disapproval, or modification of the loss cost filing. A person providing comments
 3 shall promptly send a complete copy of the comments and supporting information to
 4 the rating organization. All communications among the director, the rating
 5 organization, and an interested party submitting comments and supporting information
 6 under this subsection are part of the filing record and shall be made available for
 7 public inspection as soon as possible after issuance or receipt by the director.

8 (g) The director shall hold an administrative hearing on whether a loss cost
 9 filing meets the requirements of this chapter and whether the filing should be
 10 approved, disapproved, or modified, in whole or in part. The director shall hold the
 11 hearing not earlier than 60 days and not later than 75 days after the date of receipt of
 12 the loss cost filing by the director. The director shall issue regulations governing the
 13 conduct of the hearing. The regulations must include the following procedures:

14 (1) the director shall preside over the hearing in a quasi-judicial
 15 capacity;

16 (2) an interested party may

17 (A) appear at and participate in the hearing through counsel,
 18 actuary, or other representative approved by the director;

19 (B) have a reasonable opportunity to inspect all documentary
 20 evidence and to examine witnesses, including the designated actuary and other
 21 witnesses of the rating organization;

22 (C) present witnesses and written evidence; and

23 (D) apply for subpoenas to be issued by the director to compel
 24 attendance of witnesses and the production of evidence on the interested
 25 parties' behalf;

26 (3) the director shall record the hearing; and

27 (4) formal rules of pleading or evidence need not be observed, and the
 28 director may conduct part or all of a hearing by teleconference and allow a witness to
 29 testify telephonically.

30 (h) The director shall, within 15 days after conclusion of the administrative
 31 hearing held under (g) of this section, issue a written order. The order must

1 (1) approve, disapprove, or require modification of the loss cost filing;
 2 (2) include full details of the director's reasoning; and
 3 (3) address the positions presented by all interested parties
 4 participating at the hearing, with specific conclusions of fact and law in support of the
 5 order.

6 (i) A modified loss cost filing submitted to the director by a rating
 7 organization to conform to an order under (h) of this section shall be distributed to all
 8 interested parties of record in the loss cost filing administrative hearing, and the
 9 director shall make the modified loss cost filing available for public inspection as soon
 10 as possible. The director shall promptly determine whether the modified loss cost
 11 filing satisfies the requirements of the director's order and shall issue a written order
 12 approving or disapproving the modified loss cost filing.

13 (j) A separate loss cost filing submitted solely to address an amendment to
 14 AS 23.30 is not subject to the procedures of (b) - (i) of this section, but shall instead be
 15 reviewed and, by written order, approved or disapproved by the director on an
 16 expedited basis. The director shall make any filing under this subsection, together
 17 with all supporting information and communications between the director and the
 18 rating organization, available for public inspection as soon as possible after the filing
 19 is received.

20 (k) A written order of the director under this section is subject to review by
 21 appeal to the superior court. An appeal under this section shall be filed with the court
 22 within 30 days after the date of the written order. The court shall determine whether
 23 the filing of the appeal will operate as a stay of the order and whether the appeal
 24 should be heard on an expedited basis.

25 (l) In this section,

26 (1) "interested party" means

27 (A) an employer association;

28 (B) an employee or labor association;

29 (C) a licensee agent or broker association;

30 (D) the rating organization;

31 (E) an insurer member or subscriber of the rating organization;

1 and
2 (F) other persons who are substantially affected by the loss cost
3 filing and whose involvement has been approved in advance by the director;
4 (2) "loss cost filing" means any workers' compensation loss cost filing
5 by a licensed rating organization.
6 * **Sec. 4.** This Act takes effect July 1, 2004.