

**CS FOR HOUSE BILL NO. 540(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

**BY THE HOUSE LABOR AND COMMERCE COMMITTEE**

**Offered: 4/23/04**

**Referred: Rules**

**Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE**

**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 any other provision**  
6 **of law** shall be made in accordance with the following provisions:

7 (1) rates shall not be excessive, inadequate, or unfairly discriminatory;

8 (2) consideration shall be given to past and prospective loss experience  
9 inside and outside this state; to the conflagration and catastrophe hazards; to a  
10 reasonable margin for underwriting profit and contingencies; to dividends, savings, or  
11 unabsorbed premium deposits allowed or returned by insurers to their policyholders,  
12 members, or subscribers; to past and prospective expenses both countrywide and those  
13 specially applicable to this state; and to all other relevant factors inside and outside  
14 this state;

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

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

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

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

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

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

1 requirements of this chapter unless disapproved by the director within the waiting  
2 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 and assigned risk**  
5 **pool rate filings.** (a) On at least an annual calendar year basis, a rating organization  
6 shall make a workers' compensation prospective loss cost filing and an assigned risk  
7 pool rate filing, even if the rating organization determines that a change in the  
8 prospective loss costs or rates is not indicated.

9 (b) A rating organization shall submit a prospective loss cost filing and an  
10 assigned risk pool rate filing to the director not less than 125 days before the proposed  
11 effective date of each filing.

12 (c) At the time a prospective loss cost filing and assigned risk pool rate filing  
13 are submitted to the director under (b) of this section, the rating organization shall  
14 make available to any member or subscriber that may be affected by the filings a  
15 complete copy of the filings, together with the materials, aggregate data, and other  
16 information submitted in support of the filings. The prospective loss cost and assigned  
17 risk pool rate filings and supporting information are available for public inspection.  
18 Before the hearing under (d) of this section, members and subscribers may submit  
19 interrogatories to the rating organization, including requests for additional supporting  
20 information concerning the filings.

21 (d) The director shall hold an administrative hearing on whether a prospective  
22 loss cost filing meets the requirements of this chapter and whether the filing should be  
23 approved, disapproved, or modified, in whole or in part. The director shall hold the  
24 hearing not earlier than 20 days and not later than 25 days after the date of receipt of  
25 the prospective loss cost filing by the director. The director may adopt regulations  
26 governing the conduct of the hearing subject to the following:

27 (1) the director shall sit in a quasi-judicial capacity;

28 (2) an interested party may

29 (A) have a reasonable opportunity to inspect the filing and  
30 supporting information and to examine witnesses, including the designated  
31 actuary and other witnesses of the rating organization;

1 (B) present witnesses, oral and written testimony, and  
2 documentary evidence; and

3 (C) apply for subpoenas to be issued by the director to compel  
4 attendance of witnesses and the production of evidence on the interested  
5 party's behalf;

6 (3) evidence and testimony from interested parties is limited to matters  
7 relevant to a determination of whether the filing's prospective loss costs meet the  
8 requirements of this chapter and may include a recommendation for approval,  
9 disapproval, or modification of the prospective loss cost filing;

10 (4) the director shall record the hearing;

11 (5) formal rules of pleading or evidence need not be observed;

12 (6) the director may conduct part or all of a hearing by teleconference  
13 and allow a witness to testify telephonically; and

14 (7) the director shall leave the hearing record open for 10 days after the  
15 date of the hearing, during which time interested parties may submit additional written  
16 testimony and documentary evidence concerning the prospective loss cost filing to the  
17 director subject to the limitations of (3) of this subsection, and members and  
18 subscribers may submit to the rating organization and to the director proposed  
19 modifications to the prospective loss cost filing accompanied by the information upon  
20 which the member or subscriber supports the modification.

21 (e) The director shall review the prospective loss cost filing and the evidence  
22 presented through the hearing process within 15 days after the hearing. The 15-day  
23 period may be extended for an additional 15 days if the director gives written notice  
24 within the first 15-day period to the rating organization that additional time for  
25 consideration of the filing is required. If, under (d)(7) of this section, evidence is  
26 provided to support a modification and the rating organization does not include the  
27 requested modification in the filing, the director shall require that the rating  
28 organization rebut the evidence to show why the modification should not be included.  
29 The director may request that the rating organization

30 (1) provide additional supporting information for the filing; or

31 (2) modify the filing based on evidence provided through the hearing

1 process.

2 (f) The rating organization shall file its rebuttal, if required by the director  
3 under (e) of this section, and any other information requested under (e)(1) of this  
4 section, or its modification of the loss cost filing under (e)(2) of this section within 15  
5 days after receipt of the director's request unless additional time is allowed by the  
6 director. The director shall review the rating organization's responses to the director's  
7 interrogatories within 15 days after receipt of the response. The 15-day period may be  
8 extended for an additional 15 days if the director gives written notice within the first  
9 15-day period to the rating organization that additional time for consideration of the  
10 filing is required.

11 (g) Subject to AS 21.06.060(f), all communications under this section between  
12 the director, the rating organization, and any interested party concerning a prospective  
13 loss cost filing, including the director's interrogatories, the rating organization's written  
14 responses, modified filings and all supporting information, except for information  
15 related to a particular insured, are part of the filing record and are available for public  
16 inspection.

17 (h) The rating organization shall make available to a member or subscriber all  
18 information that is available for public inspection under this subsection as soon as  
19 possible after issuance or receipt of the information by the director. Other interested  
20 parties may obtain copies of public documents from the director.

21 (i) The director shall issue a written order approving or disapproving the  
22 prospective loss cost filing and the assigned risk pool rate filing. The order must  
23 include details of the director's reasoning for approving or disapproving the filings.

24 (j) A separate prospective loss cost filing submitted solely to address an  
25 amendment to AS 23.30 is not subject to the procedures of this section, but shall be  
26 reviewed and approved or disapproved by the director in accordance with  
27 AS 21.39.040(d). A filing under this subsection, together with all supporting  
28 information and communications between the director and the rating organization, is  
29 available for public inspection.

30 (k) A written order of the director under this section is subject to review by  
31 appeal to the superior court. An appeal under this section shall be filed with the court

1 within 30 days after the date of the written order. The court shall determine whether  
2 the filing of the appeal will operate as a stay of the order.

3 (l) A filing made under this section is subject to all other provisions of this  
4 chapter except to the extent that the other provisions are inconsistent with this section.  
5 AS 21.39.080 does not apply to a prospective loss cost filing by a workers'  
6 compensation rating organization.

7 (m) An assigned risk pool filing is not directly subject to (d) - (h) of this  
8 section.

9 (n) In this section,

10 (1) "assigned risk pool rate filing" means the filing submitted by a  
11 rating organization for rates proposed to be charged by the rating organization for the  
12 assigned risk pool insurance under AS 21.39.155;

13 (2) "interested party" means

14 (A) an employer association;

15 (B) an employee or labor association;

16 (C) a producer;

17 (D) a producer association;

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

19 and

20 (F) other persons who are substantially affected by the loss cost  
21 filing;

22 (3) "prospective loss cost filing" means the historical aggregate losses  
23 and loss adjustment expenses upon which a portion of a rate is based, adjusted through  
24 trending to a future point in time, but does not include expenses, other than loss  
25 adjustment expenses, or profit.

26 \* **Sec. 4.** This Act takes effect July 1, 2004.