

SENATE BILL NO. 191

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

BY SENATORS TAYLOR, Davis

Introduced: 4/22/03

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to insurance pooling by businesses."**

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 Insurance Arrangements for Businesses.**

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

11 (b) A joint insurance arrangement for businesses

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 insurance arrangement for
3 businesses is considered to be an association legally authorized to transact workers'
4 compensation insurance in the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (10) establishing and administering a joint insurance fund.

15 (b) A cooperative agreement may

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

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

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

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

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

1 (1) have and maintain a surplus not 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 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 insurance arrangement and maintain a surplus of \$500,000 in admitted assets or a
7 surplus sufficient to operate the joint insurance arrangement for one year, whichever is
8 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 insurance
12 arrangement for businesses are actuarially sound.

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

1 **Sec. 21.77.050. Joint insurance fund.** (a) A joint insurance arrangement for
2 businesses shall establish a joint insurance fund. The fund consists of money

3 (1) contributed by members of the joint insurance arrangement through
4 budgetary appropriations or transfers from a self-insurance reserve;

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

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

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

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

14 (2) purchase insurance coverage for members of a joint insurance
15 arrangement for businesses on a group basis.

16 (c) The administrator shall keep the fund separate from other funds of a
17 member of a joint insurance arrangement for businesses.

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

21 (e) Within 150 days after the end of the fiscal year, the administrator shall
22 furnish a detailed report of the operation and condition of the fund to the board of
23 directors and the director.

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

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

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

30 (1) "adjustment expenses" means expenses for investigative,
31 processing, legal, actuarial, arbitration, and settlement services incurred in the

1 adjustment of losses, claims, or benefits;

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

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

6 (4) "businesses" means for profit or nonprofit entities engaged in a
7 trade, service, profession, or activity with the goal of receiving a financial benefit in
8 exchange for a service, good, or other property;

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

12 (6) "fund" or "joint insurance fund" means a fund established under
13 AS 21.77.050;

14 (7) "joint insurance arrangement" means a joint insurance arrangement
15 authorized under AS 21.77.010.