

**SENATE BILL NO. 276**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/23/04

Referred: Labor and Commerce, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the Alaska Insurance Guaranty Association; relating to joint  
2 insurance arrangements and assessments to the association; relating to the powers of the  
3 Alaska Industrial Development and Export Authority concerning the association; and  
4 providing for an effective date."

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

6 \* **Section 1.** AS 21.76.020(a) is amended to read:

7 (a) A joint insurance arrangement may not be considered insurance for the  
8 purpose of any other law of the state and is not subject to regulations adopted by the  
9 director, except that a joint insurance arrangement may be subject to assessment  
10 under AS 21.80 as provided in AS 21.80.

11 \* **Sec. 2.** AS 21.80.060(a)(3) is amended to read:

12 (3) shall allocate claims paid and expenses incurred among the three  
13 accounts separately, and assess member insurers separately for each account amounts  
14 necessary to pay the obligation of the association under (1) of this subsection

1 subsequent to an insolvency, the expenses of handling covered claims subsequent to  
 2 an insolvency, and other expenses authorized by this chapter; under this paragraph,

3 (A) the assessments of each member insurer must initially be  
 4 based on a uniform percentage, as determined by the association, of the net  
 5 direct written premiums of each member insurer for the last year for which  
 6 annual statements have been filed on the kinds of insurance in the account; this  
 7 initial assessment shall be adjusted by applying the same uniform percentage  
 8 as initially used to each member insurer's net direct written premiums for the  
 9 calendar year following the year in which the initial assessment was issued;  
 10 any difference between the initial assessment amount and the adjusted  
 11 assessment amount allocated to a member insurer shall be levied against or  
 12 credited back to the member insurer, as appropriate, by the association; the  
 13 association shall calculate and issue all appropriate levies and credits as soon  
 14 as practical after all member insurers have filed their annual statements for the  
 15 calendar year following the year in which the initial assessment was issued;

16 (B) on an annual basis, the association shall determine if  
 17 funding is required for any of the three accounts; based on this determination,  
 18 the association shall, during November of each year, issue initial assessments  
 19 as may be necessary to cover the projected reasonable costs of claims and  
 20 expenses to administer the association for the following year; **under this**  
 21 **paragraph,**

22 (i) the association shall use the services of an  
 23 independent actuary to assist the association to evaluate and make the  
 24 projection;

25 (ii) an initial assessment may be made at any other time  
 26 if the association determines funding is necessary, except that a  
 27 member insurer may not be assessed initial assessments on any account  
 28 in an amount greater than **four** [TWO] percent of the member insurer's  
 29 net direct written premiums for the applicable calendar year; **and**

30 (iii) **if an account has insufficient funds to pay**  
 31 **covered claims under this section, the association shall assess each**

1                    **member insurer subject to assessment in the other two accounts an**  
 2                    **additional amount not to exceed two percent of the member**  
 3                    **insurer's net direct written premiums for the applicable calendar**  
 4                    **year;**

5                    (C) the association may pay claims in any order that it  
 6                    determines reasonable, including the payment of claims as they are received  
 7                    from claimants or in groups or categories of claims; however, if the maximum  
 8                    **of all assessments made under this section** [ASSESSMENT], together with  
 9                    the other assets of the association in any account, does not provide in any one  
 10                    year in any account an amount sufficient to make all necessary payments from  
 11                    that account, the funds available shall be prorated, and the unpaid portion shall  
 12                    be paid as soon thereafter as funds become available;

13                    (D) the association may defer, in whole or in part, an  
 14                    assessment of any member insurer if the assessment would endanger the ability  
 15                    of the member insurer to fulfill the insurer's contractual obligations or cause  
 16                    the member insurer's financial statement to reflect amounts of capital or  
 17                    surplus less than the minimum amounts required for a certificate of authority  
 18                    by any jurisdiction in which the member insurer is authorized to transact  
 19                    insurance; however, during the period of deferment, the member insurer may  
 20                    not pay dividends to shareholders or policyholders; a deferred assessment may  
 21                    only be paid when the payment does not reduce capital or surplus below  
 22                    minimums required by law; a member insurer who pays a larger assessment as  
 23                    a result of a deferment given to another member insurer shall receive a refund  
 24                    when the deferment ends or, at the election of the member insurer, receive a  
 25                    credit against future assessments;

26                    (E) each member insurer may set off against an assessment  
 27                    authorized payments made on covered claims and expenses incurred in the  
 28                    payment of these claims by the member insurer if they are chargeable to the  
 29                    account for which the assessment is made;

30                    \* **Sec. 3.** AS 21.80.060(a) is amended by adding a new paragraph to read:

31                    (8) shall assess an employer who is a self-insurer and assess a joint

1 insurance arrangement that insures an employer's workers' compensation liability  
 2 amounts necessary to pay workers' compensation claims under this section when the  
 3 maximum assessments for member insurers are not sufficient in any one year to cover  
 4 workers' compensation claims payments under this section; under this paragraph,

5 (A) the assessment on an employer or a joint insurance  
 6 arrangement may not exceed two percent of all payments reported to the  
 7 Alaska Workers' Compensation Board under AS 23.30.155(m) or (n), except  
 8 second injury fund payments;

9 (B) the association may defer, in whole or in part, an  
 10 assessment under this paragraph if an employer or a joint insurance  
 11 arrangement demonstrates to the association's satisfaction that the assessment  
 12 would endanger the ability of the employer or joint insurance arrangement to  
 13 fulfill contractual obligations or fulfill obligations under AS 23.30; the period  
 14 of deferment must last for as long as the circumstances that gave rise to the  
 15 deferment still exist.

16 \* **Sec. 4.** AS 21.80.060(b) is amended to read:

17 (b) The association may

18 (1) employ or retain those persons necessary to handle claims and  
 19 perform other duties of the association;

20 (2) borrow funds necessary to effect the purposes of this chapter in  
 21 accord with the plan of operation **and secure guarantees from the Alaska Industrial**  
 22 **Development and Export Authority for association loans that are necessary to**  
 23 **make the association financially able to meet cash flow needs;**

24 (3) sue or be sued;

25 (4) negotiate and become a party to those contracts that are necessary  
 26 to carry out the purposes of this chapter;

27 (5) perform all other acts necessary or proper to carry out the purposes  
 28 of this chapter;

29 (6) retain amounts excess of claims, expenses, credits, and other  
 30 liabilities in any account to be applied to reduce future assessments in that account,  
 31 except that, if, in any year, the association determines that significant funds in excess

1 of projected claims, expenses, credits, and other liabilities exist in an account, the  
 2 association shall return amounts to policyholders, through procedures established by  
 3 the association, whereby the association reimburses member insurers for providing  
 4 uniform credits against rates and premiums charged for all policies applicable to the  
 5 account issued during the next calendar year.

6 \* **Sec. 5.** AS 21.80.060 is amended by adding a new subsection to read:

7 (c) In this section,

8 (1) "joint insurance arrangement" has the meaning given in  
 9 AS 21.76.900;

10 (2) "self-insurer" has the meaning given in AS 23.30.395.

11 \* **Sec. 6.** AS 23.30.075 is amended by adding new subsections to read:

12 (c) An employer who is a self-insurer and a joint insurance arrangement that  
 13 insures an employer's liability under this chapter are subject to an assessment by the  
 14 Alaska Insurance Guaranty Association under AS 21.80 when the maximum  
 15 assessment on the association's member insurers is not sufficient in any one year to  
 16 cover workers' compensation claims to be paid under AS 21.80.060.

17 (d) For purposes of this section, a joint insurance arrangement is considered to  
 18 be an association duly authorized to transact the business of workers' compensation  
 19 insurance in this state.

20 (e) In this section, "joint insurance arrangement" has the meaning given in  
 21 AS 21.76.900.

22 \* **Sec. 7.** AS 44.88.080 is amended by adding a new paragraph to read:

23 (27) to guarantee loans made to the Alaska Insurance Guaranty  
 24 Association (AS 21.80.040), with these guarantees limited to loans necessary to make  
 25 the association financially able to meet cash flow needs up to a maximum outstanding  
 26 principal balance at any time of \$30,000,000.

27 \* **Sec. 8.** AS 21.76.010(d) is repealed.

28 \* **Sec. 9.** This Act takes effect immediately under AS.01.10.010(c).