

HOUSE BILL NO. 216

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

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Introduced: 3/9/05

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to insurance rate-making and form filing."**

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

3 * **Section 1.** AS 21.09.110(b) is amended to read:

4 (b) Policy forms and rates that require approval under AS 21.39 or AS 21.42
5 shall be submitted under AS 21.39.041, AS 21.39.220, or AS 21.42.120(b)
6 [AS 21.39.040(j) OR AS 21.42.120(g)] and may not be submitted with the application
7 for a certificate of authority.

8 * **Sec. 2.** AS 21.39.040(a) is repealed and reenacted to read:

9 (a) Each insurer shall file with the director, except as to inland marine risks,
10 which by general custom of the business, are not written according to manual rates or
11 rating plans, and except for rates for commercial insurance for which the director, by
12 regulation authorizes an informational filing as set out in (k) of this section, every
13 manual, minimum, class rate, rating schedule, or rating plan and every other rating
14 rule, and each modification of any of them that it proposes to use. Each filing

15 (1) shall be made under the applicable filing procedures in

1 AS 21.39.041, 21.39.210, or 21.39.220;

2 (2) must state the proposed effective date; and

3 (3) must indicate the character and extent of the coverage
4 contemplated.

5 * **Sec. 3.** AS 21.39.040(d) is repealed and reenacted to read:

6 (d) When a filing is not accompanied by the information upon which the
7 insurer supports the filing, and the director does not have sufficient information to
8 determine whether the filing meets the requirements of this chapter, the director shall
9 require the insurer to furnish the information upon which the insurer supports the
10 filing. The information furnished in support of a filing may include (1) the experience
11 or judgment of the insurer or rating organization making the filing; (2) the insurer's
12 interpretation of the statistical data it relies upon; (3) the experience of other insurers
13 or rating organizations; (4) any other relevant factors. A filing and supporting
14 information shall be open to public inspection after the filing becomes effective.
15 Specific inland marine rates on risks specially rated, made by a rating organization,
16 shall be filed with the director.

17 * **Sec. 4.** AS 21.39.040(g) is amended to read:

18 (g) Upon the written application of the insured [,] stating the reasons **for the**
19 **unusual or extrahazardous characteristics that are not otherwise contemplated in**
20 **the filed rating plan**, [FILED WITH AND APPROVED BY THE DIRECTOR,] **the**
21 **insurer may file** a rate in excess of that provided by a filing otherwise applicable **that**
22 may be used on a specific risk.

23 * **Sec. 5.** AS 21.39 is amended by adding a new section to read:

24 **Sec. 21.39.041. Prior approval.** (a) Except for workers' compensation
25 prospective loss cost filings and workers' compensation assigned risk pool rates by a
26 rating organization under AS 21.39.043, an insurer or rating organization shall file
27 medical malpractice, workers' compensation and assigned risk plan rating systems as
28 specified in AS 21.39.040(a) with the director for review and approval prior to use.
29 Each filing shall be on file for a waiting period of 15 days before it becomes effective.
30 This period may be extended by the director for an additional period not to exceed 15
31 days if the director gives written notice within the waiting period to the insurer or

1 rating organization that made the filing stating that additional time for the
2 consideration of the filing is required. The director shall approve the filing upon a
3 determination that the filing meets the requirements of this chapter.

4 (b) The filing must include the effective date. In place of a specific date, the
5 insurer or rating organization may specify a reasonable time period after approval for
6 the filing to be effective.

7 (c) Upon written application by the insurer or rating organization, the director
8 may authorize a filing that the director has approved to become effective before the
9 expiration of the waiting period. A filing shall be considered to meet the requirements
10 of this chapter unless disapproved by the director within the waiting period.

11 (d) When a filing is not accompanied by the information that supports the
12 filing, and the director does not have sufficient information to determine whether the
13 filing meets the requirements of this chapter, the director shall require the insurer to
14 furnish the information that supports the filing, and, in that event, the waiting period
15 shall commence as of the date the information is furnished. The information furnished
16 in support of a filing may include (1) the experience or judgment of the insurer or
17 rating organization making the filing; (2) the interpretation of the statistical data relied
18 upon; (3) the experience of other insurers or rating organizations; (4) any other
19 relevant factors. If the insurer or rating organization fails to provide the information
20 within 30 days after the director requests the information relied upon, the waiting
21 period may be extended by the director for an additional 15 days upon written
22 application of the insurer or rating organization within the initial 30-day response
23 period. The director may deem the failure to provide information as a request by the
24 insurer or rating organization to withdraw the filing from further consideration.

25 (e) A filing and supporting information shall be open to public inspection after
26 the filing becomes effective.

27 (f) If within the review period provided for in (a) of this section, the director
28 finds that a filing does not meet the requirements of this chapter, the director shall
29 send to the insurer or rating organization that made the filing written notice of
30 disapproval of the filing specifying in what respects the filing fails to meet the
31 requirements of this chapter and stating that the filing may not become effective.

1 * **Sec. 6.** AS 21.39.050(c) is amended to read:

2 (c) If at any time subsequent to the applicable review period provided for in
 3 AS 21.39.041(a) or 21.39.220(b) [(a) OR (b) OF THIS SECTION], the director finds
 4 that a filing does not meet the requirements of this **title** [CHAPTER], the director
 5 shall, after a hearing held upon not less than 10 days written notice[,] specifying the
 6 matters to be considered at the hearing **and** [,] given to each insurer and rating
 7 organization that made the filing, issue an order specifying in what respects the filing
 8 fails to meet the requirements of this **title** [CHAPTER] and stating when, within a
 9 reasonable period thereafter, the filing shall be considered no longer effective. Copies
 10 of the order shall be sent to each insurer and rating organization that made the filing.
 11 The order **may** [SHALL] not affect a contract or policy made or issued before the
 12 expiration of the period set out in the order.

13 * **Sec. 7.** AS 21.39.070(b) is amended to read:

14 (b) Each deviation permitted to be filed shall remain in effect for a period of
 15 not less than one year from the effective date unless withdrawn by the insurer with the
 16 approval of the director or until terminated in accordance with AS 21.39.041,
 17 21.39.210, or 21.39.220 [AS 21.39.050].

18 * **Sec. 8.** AS 21.39.110(a) is amended to read:

19 (a) Each group, association, or other organization of insurers that engages in
 20 joint underwriting or joint reinsurance is subject to regulation in accordance with this
 21 section. In addition, joint underwriting is subject to all other provisions of this
 22 chapter, except for AS 21.39.210, and joint reinsurance is subject to AS 21.39.120,
 23 21.39.160, and 21.39.170.

24 * **Sec. 9.** AS 21.39 is amended by adding new sections to read:

25 **Sec. 21.39.210. Flex-rating.** (a) Except for workers' compensation, medical
 26 malpractice, and assigned risk plan rates, an insurer's rate level increase or decrease
 27 may take effect without prior approval if the cumulative rate level change for all
 28 coverages combined, calculated from the effective date to 12 months before the
 29 effective date, is not greater than 10 percent.

30 (b) An insurer may make multiple rate filings under this provision during any
 31 12-month period if the cumulative rate level change is within the specified limitation

1 as described in (a) of this section. For an insurer adopting a rating organization
2 prospective loss cost filing, the cumulative rate level change includes both the rating
3 organization's prospective loss cost change as well as the insurer's loss cost adjustment
4 change.

5 (c) Notwithstanding any other provision of this chapter, for a policy governed
6 by this section, a filing that produces a rate level change within the limitations
7 provided in (a) of this section is effective without prior approval and may take effect
8 on the date specified in the filing, but not earlier than the date it is received by the
9 division. A rate level change within the limitation in (a) of this section may not be
10 applied to a policy until the beginning of the policy period.

11 (d) A filing submitted under (a) of this section must include an exhibit
12 showing the calculation of the overall rate level change and an exhibit showing the
13 insurer's expense provisions. An insurer submitting a loss cost adjustment filing shall
14 include supporting information showing how the loss cost adjustment is calculated.
15 The director may request additional supporting information if the director does not
16 have enough information upon which to determine if the filing meets the requirements
17 of this chapter.

18 (e) A filing submitted under (a) of this section is considered to comply with
19 this title. However, if the director determines that the filing does not meet the
20 requirements of this title, the director shall issue an order specifying in detail the
21 specific statutes the insurer has violated and the reasons the filing is not in compliance.
22 The order must state a reasonable future date on which the filing is to be considered no
23 longer effective. An order by the director under this subsection is prospective and
24 does not affect any contract issued or made before the effective date of the order.

25 (f) The director may adopt regulations implementing the provisions of this
26 section.

27 (g) This section does not apply to rating organizations or to any impaired or
28 insolvent insurer operating under a rehabilitation plan, an order of supervision, or an
29 impaired financial condition as determined by the director.

30 **Sec. 21.39.220. File and use, filing of rates, supplementary rate**
31 **information, and supporting information.** (a) An insurer's rate level increase or

1 decrease filing falling outside of the limitation provided in AS 21.39.210(a) is subject
2 to file and use provisions under this section, unless the filing is otherwise exempt from
3 those provisions under another provision in this chapter. A rate filing from a rating
4 organization shall be submitted to the director under the file and use provisions. A
5 rate filing from an insurer operating under a rehabilitation plan, an order of
6 supervision, or under an impaired financial condition as determined by the director
7 shall be submitted to the division under the prior approval provisions. The insurer
8 shall submit a filing for a new product or coverage introduction that does not have a
9 rate on file under the file and use provisions.

10 (b) Each insurer shall file with the director all rates, supplementary rate
11 information, and supporting information at least 30 days before the proposed effective
12 date. The director shall review the filing within 15 days. This period may be
13 extended by the director for an additional period not to exceed 15 days if the director
14 gives written notice within the initial 15 day period to the insurer or rating
15 organization that made the filing that states additional time for the consideration of the
16 filing is required. The waiting period is the 30-day period following the date the
17 director receives the filing.

18 (c) The filing must include the effective date that may not be before the end of
19 the waiting period. Upon written application by the insurer or rating organization, the
20 director may authorize a filing that the director has reviewed to become effective
21 before the expiration of the waiting period.

22 (d) A filing shall be considered to meet the requirements of this chapter and to
23 become effective unless disapproved by the director within the waiting period.

24 (e) The director shall disapprove a rate if the director finds that the rate does
25 not meet the requirements of this title.

26 (f) When a filing is not accompanied by the information that supports the
27 filing, and the director does not have sufficient information to determine whether the
28 filing meets the requirements of this title, the director shall require the insurer to
29 furnish the information upon which it supports the filing. If the support information is
30 requested, the waiting period commences on the date the information is furnished.
31 The information furnished in support of the filing may include (1) the experience or

1 judgment of the insurer or rating organization making the filing; (2) the interpretation
 2 of the statistical data relied upon; (3) the experience of other insurers or rating
 3 organizations; (4) any other relevant factors. If the insurer or rating organization is
 4 unable to provide the information within 30 days after the director's request, the period
 5 may be extended by the director for an additional 15 days upon written application of
 6 the insurer or rating organization within the initial 30 day response period. The
 7 director may disapprove the filing for failure to provide the requested information
 8 during the response period. The disapproval notice must state a reasonable future date
 9 on which the filing is to be considered no longer effective.

10 (g) A filing and supporting information shall be open to public inspection after
 11 the director completes the review of the filing.

12 (h) If within the waiting period in (b) of this section, the director finds that a
 13 filing does not meet the requirements of this chapter, the director shall send to the
 14 insurer or rating organization which made the filing, written notice of disapproval of
 15 the filing specifying in what respects the filing fails to meet the requirements of this
 16 chapter and shall state a reasonable future date on which the filing is to be considered
 17 no longer effective.

18 * **Sec. 10.** AS 21.42.120(b) is repealed and reenacted to read:

19 (b) Each insurer or rating organization shall submit a filing under one of the
 20 following procedures, clearly specifying the filing procedure under which the filing is
 21 being made:

22 (1) for prior approval under AS 21.42.123; or

23 (2) for file and use under AS 21.42.125.

24 * **Sec. 11.** AS 21.42.120 is amended by adding a new subsection to read:

25 (i) The director may by order require an insurance document, form, or type of
 26 insurance document or form as specified in the order, to be submitted for prior
 27 approval if in the opinion of the director the approval of the insurance document,
 28 form, or type of insurance document or form is necessary for the protection of the
 29 public.

30 * **Sec. 12.** AS 21.42 is amended by adding new sections to read:

31 **Sec. 21.42.123. Form filing subject to prior approval.** (a) A prior approval

1 filing shall be made not less than 30 days before the effective date. At the end of the
 2 30-day period the form filed shall be considered approved unless before the end of the
 3 30-day period it has been affirmatively disapproved by order of the director. Approval
 4 of the form by the director before the end of the 30-day period constitutes a waiver of
 5 the unexpired portion of the waiting period. The director may extend by not more
 6 than an additional 30 days the period for approving or disapproving the form, by
 7 giving notice of the extension during the initial 30-day period. At the expiration of the
 8 extended period, and in the absence of a prior approval or disapproval, the form shall
 9 be considered approved. The director may at any time after the notice, and for cause
 10 shown, withdraw the approval.

11 (b) The director may require the insurer or rating organization to revise the
 12 filing to meet the prior approval filing requirements in this title. Failure of the insurer
 13 or rating organization to provide the information within 30 days after the director's
 14 request, or an extension of the period by the director for an additional 15 days upon
 15 written request of the insurer or rating organization within the waiting period, is
 16 considered to be a request by the insurer or rating organization to withdraw the filing
 17 from further consideration.

18 (c) The filing must state an effective date. In place of a specific date, the
 19 insurer or rating organization may specify a reasonable time period after approval for
 20 the filing to be effective.

21 (d) A prior approval filing shall be open to public inspection after the filing
 22 becomes effective.

23 **Sec. 21.42.125. Form filing subject to file and use; penalties.** (a) A file and
 24 use filing shall be filed with the director for a waiting period of not less than 30 days.
 25 The period may be extended by the director or the insurer or rating organization for an
 26 additional 30 days if notice is given within the initial 30-day period that additional
 27 time is needed for the consideration of the filing. The filing may become effective at
 28 the end of the waiting period unless disapproved by the director before the expiration
 29 of the waiting period.

30 (b) The filing must state an effective date that must be after the waiting period.
 31 Upon written notice by the insurer or rating organization, the director may authorize a

1 filing that has been reviewed to become effective before the expiration of the waiting
2 period.

3 (c) A file and use form filing must include a signed compliance certificate
4 certifying that the filing complies with this title. An authorized officer or state filings
5 manager of the insurer shall sign the compliance certificate stating that, to the best of
6 the individual's knowledge, the filing complies with this title. In addition to any other
7 penalty provided by law, the director may issue an order requiring an insurer who
8 submits a materially false or misleading compliance certificate to submit future form
9 filings for prior approval. The order must specify the conditions under which the
10 insurer may again submit filings under this section. In addition to any other penalty
11 provided by law, a person that the director finds has submitted a materially false or
12 misleading compliance certificate is subject to either a civil penalty of not more than
13 \$10,000 for each violation, or a civil penalty of not more than \$25,000 for each
14 violation if the director finds that the person knowingly violated the provisions of this
15 title. A filing that does not include the signed compliance certificate shall be reviewed
16 under the prior approval procedure under AS 21.42.123. In this subsection,
17 "knowingly" has the meaning given in AS 11.81.900.

18 (d) The director may require an insurer or rating organization to provide
19 additional information to demonstrate that a file and use filing meets the requirements
20 of this title or to revise the filing to meet the requirements of this title. If an insurer or
21 rating organization fails to provide the information within the waiting period described
22 in (a) of this section, the director shall consider the failure to request a withdrawal of
23 the filing from further consideration.

24 (e) A file and use filing shall be open to public inspection after the filing
25 becomes effective.

26 * **Sec. 13.** AS 21.39.050(a) is repealed.