

CS FOR HOUSE BILL NO. 216(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/4/05

Referred: Finance

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

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 **filing** [APPROVAL] under AS 21.39 or
5 AS 21.42 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8 * **Sec. 2.** AS 21.39.040(a) is repealed and reenacted to read: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, loss cost adjustment, or rating plan and
14 every other rating rule, and each modification of any of them that it proposes to use.
15 Each filing

1 (1) shall be made under the applicable filing procedures in
2 AS 21.39.041, 21.39.210, or 21.39.220;

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

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

6 * **Sec. 3.** AS 21.39.040(d) is repealed and reenacted to read:

7 (d) When a filing is not accompanied by the information upon which the
8 insurer supports the filing, and the director does not have sufficient information to
9 determine whether the filing meets the requirements of this chapter, the director shall
10 require the insurer to furnish the information upon which the insurer supports the
11 filing. The waiting period in AS 21.39.041(a) or 21.39.220(b) begins on the date the
12 information is furnished to the director. The information furnished in support of a
13 filing may include (1) the experience or judgment of the insurer or rating organization
14 making the filing; (2) the insurer's interpretation of the statistical data it relies upon;
15 (3) the experience of other insurers or rating organizations; (4) any other relevant
16 factors. Specific inland marine rates on risks specially rated, made by a rating
17 organization, shall be filed with the director.

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

19 (g) Upon the written application of the insured **describing the unusual**
20 **characteristics that are not otherwise contemplated in the filed rating plan, the**
21 **insurer may file** [, STATING THE REASONS, FILED WITH AND APPROVED
22 BY THE DIRECTOR,] a rate **other than a rate** [IN EXCESS OF THAT] provided
23 **for in an applicable rate filing that** [BY A FILING OTHERWISE APPLICABLE]
24 may be used on a specific risk. **The filing shall be made under the applicable filing**
25 **procedures in AS 21.39.041 or 21.39.220.**

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

27 **Sec. 21.39.041. Prior approval.** (a) Except for workers' compensation
28 prospective loss cost filings and workers' compensation assigned risk pool rates by a
29 rating organization under AS 21.39.043, an insurer or rating organization shall file
30 medical malpractice, workers' compensation and assigned risk plan rating systems as
31 specified in AS 21.39.040(a) with the director for review and approval prior to use.

1 Each filing shall be on file for a waiting period of 15 days before it becomes effective.
 2 This period may be extended by the director for an additional period not to exceed 15
 3 days if the director gives written notice within the waiting period to the insurer or
 4 rating organization that made the filing stating that additional time for the
 5 consideration of the filing is required. The director shall approve the filing upon a
 6 determination that the filing meets the requirements of this title.

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

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

14 (d) If the insurer or rating organization fails to provide information requested
 15 by the director under AS 21.39.040(d) within 30 days after the director requests the
 16 information, the response period may be extended by the director for an additional 15
 17 days upon written application of the insurer or rating organization within the initial 30-
 18 day response period. The director shall consider the failure to provide information as
 19 a request by the insurer or rating organization to withdraw the filing from further
 20 consideration.

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

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

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

29 (c) If at any time subsequent to the applicable review period provided for in
 30 **AS 21.39.041(a) or 21.39.220(b)** [(a) OR (b) OF THIS SECTION], the director finds
 31 that a filing does not meet the requirements of this **title** [CHAPTER], the director

1 shall, after a hearing held upon not less than 10 days written notice[,] specifying the
 2 matters to be considered at the hearing **and** [,] given to each insurer and rating
 3 organization that made the filing, issue an order specifying in what respects the filing
 4 fails to meet the requirements of this **title** [CHAPTER] and stating when, within a
 5 reasonable period thereafter, the filing shall be considered no longer effective. Copies
 6 of the order shall be sent to each insurer and rating organization that made the filing.
 7 The order **may** [SHALL] not affect a contract or policy made or issued before the
 8 expiration of the period set out in the order.

9 * **Sec. 7.** AS 21.39.110(a) is amended to read:

10 (a) Each group, association, or other organization of insurers that engages in
 11 joint underwriting or joint reinsurance is subject to regulation in accordance with this
 12 section. In addition, joint underwriting is subject to all other provisions of this
 13 chapter, **except for AS 21.39.210,** and joint reinsurance is subject to AS 21.39.120,
 14 21.39.160, and 21.39.170.

15 * **Sec. 8.** AS 21.39 is amended by adding new sections to read:

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

21 (b) An insurer may make multiple rate filings under this provision during any
 22 12-month period if the cumulative rate level change is within the specified limitation
 23 as described in (a) of this section. For an insurer adopting a rating organization
 24 prospective loss cost filing, the cumulative rate level change includes both the rating
 25 organization's prospective loss cost change as well as the insurer's loss cost adjustment
 26 change.

27 (c) Notwithstanding any other provision of this title, for a policy governed by
 28 this section, a filing that produces a rate level change within the limitations provided
 29 in (a) of this section is effective without prior approval and may take effect on the date
 30 specified in the filing, but not earlier than the date it is received by the division. A rate
 31 level change within the limitation in (a) of this section may not be applied to a policy

1 until the beginning of the policy period.

2 (d) A filing submitted under (a) of this section must include an exhibit
3 showing the calculation of the overall rate level change and an exhibit showing the
4 insurer's expense provisions. An insurer submitting a loss cost adjustment filing shall
5 include supporting information showing how the loss cost adjustment is calculated.
6 The director may request additional supporting information if the director does not
7 have enough information upon which to determine if the filing meets the requirements
8 of this title.

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

16 (f) The director may adopt regulations implementing the provisions of this
17 section.

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

21 **Sec. 21.39.220. File and use, filing of rates, supplementary rate**
22 **information, and supporting information.** (a) An insurer's rate level increase or
23 decrease filing falling outside of the limitation provided in AS 21.39.210(a) is subject
24 to file and use provisions under this section, unless the filing is otherwise exempt from
25 those provisions under another provision in this chapter. A rate filing from a rating
26 organization shall be submitted to the director under the file and use provisions. A
27 rate filing from an insurer operating under a rehabilitation plan, an order of
28 supervision, or under an impaired financial condition as determined by the director
29 shall be submitted to the division under the prior approval provisions. The insurer
30 shall submit a filing for a new product or coverage introduction that does not have a
31 rate on file under the file and use provisions.

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

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

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

15 (e) The director shall disapprove a filing if the director finds that the filing
16 does not meet the requirements of this title.

17 (f) If the insurer or rating organization is unable to provide information
18 requested by the director under AS 21.39.040(d) within 30 days after the director's
19 request, the response period may be extended by the director for an additional 15 days
20 upon written application of the insurer or rating organization within the initial 30 day
21 response period. The director may disapprove the filing for failure to provide the
22 requested information during the response period. The disapproval notice must state a
23 reasonable future date on which the filing is to be considered no longer effective.

24 (g) A filing and supporting information shall be open to public inspection after
25 the director completes the review of the filing or after the filing becomes effective,
26 whichever is later.

27 (h) If within the waiting period in (b) of this section, the director finds that a
28 filing does not meet the requirements of this title, the director shall send to the insurer
29 or rating organization which made the filing, written notice of disapproval of the filing
30 specifying in what respects the filing fails to meet the requirements of this title and
31 shall state a reasonable future date on which the filing is to be considered no longer

1 effective.

2 * **Sec. 9.** AS 21.42.120(b) is repealed and reenacted to read:

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

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

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

8 * **Sec. 10.** AS 21.42.120 is amended by adding a new subsection to read:

9 (i) The director may by order require an insurance document, form, or type of
10 insurance document or form as specified in the order, to be submitted for prior
11 approval if in the opinion of the director the approval of the insurance document,
12 form, or type of insurance document or form is necessary for the protection of the
13 public.

14 * **Sec. 11.** AS 21.42 is amended by adding new sections to read:

15 **Sec. 21.42.123. Form filing subject to prior approval.** (a) A prior approval
16 filing shall be made not less than 30 days before the effective date. At the end of the
17 30-day period the form filed shall be considered approved unless before the end of the
18 30-day period it has been affirmatively disapproved by the director. Approval of the
19 form by the director before the end of the 30-day period constitutes a waiver of the
20 unexpired portion of the waiting period. The director may extend by not more than an
21 additional 30 days the period for approving or disapproving the form, by giving notice
22 of the extension during the initial 30-day period. At the expiration of the extended
23 period, and in the absence of a prior approval or disapproval, the form shall be
24 considered approved. The director may, by order, at any time after the notice, and for
25 cause shown, withdraw the approval.

26 (b) The director may require the insurer or rating organization to revise the
27 filing to comply with this title. Failure of the insurer or rating organization to provide
28 the information within 30 days after the director's request, or an extension of the
29 period by the director for an additional 15 days upon written request of the insurer or
30 rating organization within the response period, is considered to be a request by the
31 insurer or rating organization to withdraw the filing from further consideration.

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

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

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

13 (b) The filing must state an effective date that must be after the waiting period.
 14 Upon written notice by the insurer or rating organization, the director may authorize a
 15 filing that has been reviewed to become effective before the expiration of the waiting
 16 period.

17 (c) A file and use form filing must include a signed compliance certificate
 18 certifying that the filing complies with this title. An authorized officer or state filings
 19 manager of the insurer shall sign the compliance certificate stating that, to the best of
 20 the individual's knowledge, the filing complies with this title. The director may issue
 21 an order requiring an insurer who submits an incomplete or inaccurate compliance
 22 certificate to submit future form filings for prior approval. The order must specify the
 23 conditions under which the insurer may again submit filings under this section. In
 24 addition to any other penalty provided by law, a person that the director finds has
 25 submitted a materially false or misleading compliance certificate may be subject to
 26 either a civil penalty of not more than \$10,000 for each violation, or a civil penalty of
 27 not more than \$25,000 for each violation if the director finds that the person
 28 knowingly violated the provisions of this title. A filing that does not include the
 29 signed compliance certificate shall be reviewed under the prior approval procedure
 30 under AS 21.42.123. In this subsection, "knowingly" has the meaning given in
 31 AS 11.81.900.

1 (d) The director may require an insurer or rating organization to provide
2 additional information to demonstrate that a file and use filing meets the requirements
3 of this title or to revise the filing to meet the requirements of this title. If an insurer or
4 rating organization fails to provide the information within the waiting period described
5 in (a) of this section, the director shall consider the failure to be a request to withdraw
6 the filing from further consideration.

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

9 * **Sec. 12.** AS 21.39.050(a) and 21.39.070(b) are repealed.