

**CS FOR HOUSE BILL NO. 216(L&C)(title am)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE LABOR AND COMMERCE COMMITTEE**

**Amended: 4/26/05**

**Offered: 4/4/05**

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

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to policy forms and rates that require filing; requiring the filing of**  
2 **certain rates, rating schedules, loss cost adjustments, and rating plans with the director**  
3 **of the division of insurance; establishing a procedure for the director of the division of**  
4 **insurance to obtain additional supporting information from an insurer for a filing;**  
5 **relating to an application for a rate other than that in an applicable rate filing;**  
6 **requiring prior approval for certain rating systems and the procedure for approving a**  
7 **filing; providing for the issuance of orders relating to nonconforming filings after a**  
8 **hearing; relating to the regulation of joint underwriting and joint reinsurance; relating**  
9 **to flex rating; relating to file and use, filing of rates, supplementary rate information,**  
10 **and supporting information; authorizing the director of the division of insurance to**  
11 **require prior approval; relating to form filing subject to prior approval and form filing**  
12 **subject to file and use; and providing for penalties relating to file and use."**

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

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

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

7 \* **Sec. 2.** AS 21.39.040(a) is repealed and reenacted to read:

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

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

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

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

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

21 (d) When a filing is not accompanied by the information upon which the  
 22 insurer supports the filing, and the director does not have sufficient information to  
 23 determine whether the filing meets the requirements of this chapter, the director shall  
 24 require the insurer to furnish the information upon which the insurer supports the  
 25 filing. The waiting period in AS 21.39.041(a) or 21.39.220(b) begins on the date the  
 26 information is furnished to the director. The information furnished in support of a  
 27 filing may include (1) the experience or judgment of the insurer or rating organization  
 28 making the filing; (2) the insurer's interpretation of the statistical data it relies upon;  
 29 (3) the experience of other insurers or rating organizations; (4) any other relevant  
 30 factors. Specific inland marine rates on risks specially rated, made by a rating  
 31 organization, shall be filed with the director.

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

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

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

10 **Sec. 21.39.041. Prior approval.** (a) Except for workers' compensation  
 11 prospective loss cost filings and workers' compensation assigned risk pool rates by a  
 12 rating organization under AS 21.39.043, an insurer or rating organization shall file  
 13 medical malpractice, workers' compensation and assigned risk plan rating systems as  
 14 specified in AS 21.39.040(a) with the director for review and approval prior to use.  
 15 Each filing shall be on file for a waiting period of 15 days before it becomes effective.  
 16 This period may be extended by the director for an additional period not to exceed 15  
 17 days if the director gives written notice within the waiting period to the insurer or  
 18 rating organization that made the filing stating that additional time for the  
 19 consideration of the filing is required. The director shall approve the filing upon a  
 20 determination that the filing meets the requirements of this title.

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

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

28 (d) If the insurer or rating organization fails to provide information requested  
 29 by the director under AS 21.39.040(d) within 30 days after the director requests the  
 30 information, the response period may be extended by the director for an additional 15  
 31 days upon written application of the insurer or rating organization within the initial 30-

1 day response period. The director shall consider the failure to provide information as  
 2 a request by the insurer or rating organization to withdraw the filing from further  
 3 consideration.

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

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

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

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

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

24 (a) Each group, association, or other organization of insurers that engages in  
 25 joint underwriting or joint reinsurance is subject to regulation in accordance with this  
 26 section. In addition, joint underwriting is subject to all other provisions of this  
 27 chapter, except for AS 21.39.210, and joint reinsurance is subject to AS 21.39.120,  
 28 21.39.160, and 21.39.170.

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

30 **Sec. 21.39.210. Flex-rating.** (a) Except for workers' compensation, medical  
 31 malpractice, and assigned risk plan rates, an insurer's rate level increase or decrease

1 may take effect without prior approval if the cumulative rate level change for all  
2 coverages combined, calculated from the effective date to 12 months before the  
3 effective date, is not greater than 10 percent.

4 (b) An insurer may make multiple rate filings under this provision during any  
5 12-month period if the cumulative rate level change is within the specified limitation  
6 as described in (a) of this section. For an insurer adopting a rating organization  
7 prospective loss cost filing, the cumulative rate level change includes both the rating  
8 organization's prospective loss cost change as well as the insurer's loss cost adjustment  
9 change.

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

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

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

30 (f) The director may adopt regulations implementing the provisions of this  
31 section.

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

4 **Sec. 21.39.220. File and use, filing of rates, supplementary rate**  
 5 **information, and supporting information.** (a) An insurer's rate level increase or  
 6 decrease filing falling outside of the limitation provided in AS 21.39.210(a) is subject  
 7 to file and use provisions under this section, unless the filing is otherwise exempt from  
 8 those provisions under another provision in this chapter. A rate filing from a rating  
 9 organization shall be submitted to the director under the file and use provisions. A  
 10 rate filing from an insurer operating under a rehabilitation plan, an order of  
 11 supervision, or under an impaired financial condition as determined by the director  
 12 shall be submitted to the division under the prior approval provisions. The insurer  
 13 shall submit a filing for a new product or coverage introduction that does not have a  
 14 rate on file under the file and use provisions.

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

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

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

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

31 (f) If the insurer or rating organization is unable to provide information

1 requested by the director under AS 21.39.040(d) within 30 days after the director's  
 2 request, the response period may be extended by the director for an additional 15 days  
 3 upon written application of the insurer or rating organization within the initial 30 day  
 4 response period. The director may disapprove the filing for failure to provide the  
 5 requested information during the response period. The disapproval notice must state a  
 6 reasonable future date on which the filing is to be considered no longer effective.

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

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

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

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

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

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

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

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

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

29 **Sec. 21.42.123. Form filing subject to prior approval.** (a) A prior approval  
 30 filing shall be made not less than 30 days before the effective date. At the end of the  
 31 30-day period the form filed shall be considered approved unless before the end of the

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

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

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

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

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

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

31 (c) A file and use form filing must include a signed compliance certificate

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

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

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

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