

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 7, 2007

3:04 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mark Neuman, Vice Chair
Representative Carl Gatto
Representative Gabrielle LeDoux
Representative Jay Ramras
Representative Robert L. "Bob" Buch
Representative Berta Gardner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

OVERVIEW(S): DIVISION OF INSURANCE

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

LINDA HALL, Director
Division of Insurance
Anchorage Office
Department of Commerce, Community, & Economic Development
(DCCED)
Anchorage, Alaska
POSITION STATEMENT: Presented an overview of the Division of Insurance.

ACTION NARRATIVE

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at [3:04:56 PM](#). Representatives Gardner, Gatto, Buch, and Olson were present at the call to order. Representatives Ramras, Neuman, and LeDoux arrived as the meeting was in progress.

OVERVIEW(S): DIVISION OF INSURANCE

CHAIR OLSON announced that the only order of business would be an overview of the Division of Insurance.

3:05:02 PM

LINDA HALL, Director, Division of Insurance, Anchorage Office, Department of Commerce, Community, & Economic Development (DCCED), began by explaining the general background of the Division of Insurance ("the Division"). Referring to a handout titled "Overview - House Labor & Commerce, February 7, 2007, Division of Insurance," she explained that the Division is the primary regulator of the insurance industry in Alaska. The federal government defers the aforementioned regulation to each state. The Division has been accredited by the National Association of Insurance Commissioners (NAIC), a regulatory group which provides a forum for interaction with other states, in order to come up with joint goals and standards. She then read the Division's mission, as follows [original punctuation provided]:

The mission of the Division of Insurance is to protect and educate the consumer, to develop, interpret and enforce the insurance statutes and regulations, and to enhance the insurance business environment.

MS. HALL stated that the Division has "very diverse goals," which can be a "balancing act" of ensuring consumer protection and maintaining a competitive marketplace. She then discussed the Consumer Services Section of the Division. This section responds to consumer inquiries and investigates consumer complaints. She relayed examples of the different types of consumer complaints that the Division has assisted in resolving.

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REPRESENTATIVE GATTO inquired as to the procedure used by insurance companies in order to determine the value of a vehicle.

MS. HALL replied that the replacement cost is the "actual cash value" of the vehicle.

REPRESENTATIVE GATTO offered an example of a procedure used by insurance companies to gather the aforementioned information,

and asked if the Division should be contacted by individuals who object to this procedure.

MS. HALL replied yes. Continuing with her presentation, she pointed out that in 2005, the Consumer Services Section obtained more than \$600 thousand in additional payments to Alaskan consumers.

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MS. HALL, moving on to the Licensing Section, explained that licenses are issued upon determining that the licensing requirements are met. There are currently over 25,000 licenses in Alaska, 3,750 of which have been issued to residents. The remaining licenses issued are non-resident.

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REPRESENTATIVE NEUMAN relayed a story and inquired as to how citizens of Alaska can be sure that insurance companies will honor the policies sold.

MS. HALL replied that a number of sanctions can be taken, including termination of the company's "certificate of authority to do business in the state." She stated that she would be "hard pressed to think there was a situation [in which] the Division's hands were tied." She explained that if an insurance company were fined by the Division and did not pay, this information would be returned to the NAIC, and would affect the company's ability to sell insurance in other states. In response to an additional question from Representative Neuman, she stated that she does not know of any insurance companies that have refused to pay the fines.

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MS. HALL then discussed the Investigation Section of the Division. The following types of fraud are investigated: claimant fraud, license application issues, workers' compensation fraud, agent fraud, insurance company fraud, premium fraud, and insurance document fraud. These cases are presented to the director, and are then referred to the Assistant Attorney General (AAG) for civil, administrative, and criminal actions. She noted that the AAG averages 2-4 criminal convictions per year.

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REPRESENTATIVE LEDOUX asked where the criminal prosecutions are focused.

MS. HALL replied that criminal prosecutions are most often agent fraud and claimant fraud. In response to an additional question, she stated that the Division would look at any case which resulted in a verdict of fraudulent activity.

REPRESENTATIVE GATTO inquired as to the ethical requirements versus legal requirements of insurance companies.

MS. HALL replied that the [unfair trade practices] section of Title 21 makes certain unethical trade practices a statutory violation.

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REPRESENTATIVE LEDOUX offered her understanding that the unfair trade practices section only applies to the client of the insurance company, and would not apply to a third-party claim.

MS. HALL replied that she does not currently have this information and offered to research this. In response to a question from Representative Neuman, she explained that claimant fraud, sales fraud, and broker fraud are most common. Initial calls are reviewed to determine which section of the Division should handle the claim. The Division receives many calls involving unfair treatment. Ms. Hall encouraged members to refer concerned constituents to the Consumer Services Section. Inquiries made to this section may then go to the Investigation Section or to the Market Conduct Examination Section. The Market Conduct Examination Section, she said, oversees the practices and behavior of insurance companies, producers, brokers, and adjusters. She gave examples of market conduct examination. In response to a question from Representative Gardner regarding health insurance, she explained that the Division has oversight of 40 percent of those covered by health insurance in Alaska. She explained the role of "insurance administrator," and said "if there's no incentive in the state to cut the cost of claims, there shouldn't be an incentive to delay payment."

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MS. HALL then moved on to discuss the Financial Examination Section. This section reviews the solvency of 1,072 admitted

insurers in Alaska, in addition to collecting premium taxes and fees. The Division is the primary regulator of 9 domestic insurance companies, and is accredited based on the quality of its financial examinations.

CHAIR OLSON offered his understanding that a copy of the [state health care contract] was recently passed out of a budget subcommittee, adding that it contains delayed response penalties.

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MS. HALL moved on to the Filings Section of the Division. She explained that this section reviews insurance contracts and premium rate filing to ensure they are not excessive, inadequate, or unfairly discriminatory. She then offered details regarding this section. In response to a question, she explained that discounts may only be given "across the board." Finally, she stated that in 2005, the Division received 4,750 rate and form filings.

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MS. HALL, in response to a question, stated that the Division does not have a guide to healthcare insurance. She also agreed to provide all available insurance guides to the committee members. Referring to the "Alaska Insurance Consumer Guide," she stated that this discusses many types of personal insurance. She opined that this is a "very valuable guide." Moving on to Revenues, she explained insurance premium taxes are the second largest source of revenue to the general fund. In fiscal year 06 (FY 06) premium taxes were "well in excess" of \$44 million. Insurance companies pay premium taxes in lieu of income and corporate taxes. During the 2005 calendar year, \$2.7 billion in insurance premiums were written in Alaska. In FY 06, the Division generated \$9.6 million in fees. She explained that the Division is funded by the fees generated, and not through the general fund.

REPRESENTATIVE RAMRAS inquired as to the satisfaction of the Division, in regard to the volume of commercial insurance carriers in Alaska.

MS. HALL replied that the Division is not currently satisfied. She then discussed regulatory modernization, which is an effort to "bring markets" into Alaska. There are several obstacles that must be overcome, although improvements have been noted.

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MS. HALL moved on to discuss the issues and challenges of the Division. She is not satisfied with the current insurance markets. Referring to a study done by Oregon state, she explained that in 2005, Alaska had the highest workers' compensation premiums in the country. She agreed to distribute the aforementioned study to the committee members. She pointed out that in January 2007, the average rate decrease was 10 percent.

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MS. HALL, in response to a question from Representative Neuman, replied that a decrease in workers' compensation rates may have been a result of legislation that was passed. There has been a decrease in the frequency of claims, which has resulted in a reduction of rates. However, the average cost of a claim remains significantly higher than the national average. In addition, companies are seeking a change in environment, and are recognizing Alaska as a place to do business.

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REPRESENTATIVE RAMRAS shared his experience as a member of the Cabaret Hotel Restaurant & Retailer's Association group workers' compensation program. In regard to the work done by the Division, he said "great kudos to your department, for being proactive and fixing people's lives, and saving jobs."

MS. HALL, in response to a question from Representative Ramras regarding the current workers' compensation system, expressed her opinion that the state does not "take the best care" of its injured workers, adding that there is "a long way to go." She opined that having the highest premiums does not necessarily mean the state has "the very best system."

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CHAIR OLSON requested that the most recent report of the National Council on Compensation Insurance (NCCI) be distributed to the committee.

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MS. HALL, in response to a question from Representative LeDoux, stated that she has not heard any negative feedback on the [Workers' Compensation Appeals Commission (Commission)]. Only two of the [Commissions] decisions have been appealed. In regard to the aforementioned 10 percent average rate decrease, she explained that depending on the category, certain rates went up, while others went down. She gave a brief breakdown of the most significant decreases and increases. In response to questions, she offered the rate increases for previous years. She explained that homebuilders have a variety of classifications, and offered to provide this information to the committee. Workers' compensation is a residual market, and offers coverage in a "high-risk pool." She gave a brief history of the aforementioned high-risk pool, and surmised that 85 percent of these policies are under \$10,000 in premium.

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MS. HALL, in response to an additional question, opined that some employers will continue to require that workers become independent contractors as long as workers' compensation rates remain high. However, the rates remain the same, regardless of who is paying.

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MS. HALL went on to discuss health insurance. New companies are writing business in Alaska, although cost remains an issue. In response to a question from Representative Gatto regarding workers' compensation, she explained that general contractors [are responsible for ensuring that the employees of subcontractors are covered].

REPRESENTATIVE RAMRAS offered a scenario involving a construction worker who is injured while working under his or her fifth employer and years later caused to retire [due to the aforementioned injury]. He inquired as to who must take on the responsibility of the injured worker.

MS. HALL replied that she is unable to answer this question, as it is "fact-specific" case. Returning to health insurance in Alaska, she explained that the Division has primary oversight of 40 percent of those insured. The remaining 60 percent are not required to follow mandates set by the Division. She then discussed homeowner and earthquake coverage. In response to a question, she offered her understanding that "earthquake zones" may affect coverage rates.

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MS. HALL, in response to a question from Representative Buch, offered her understanding that insurance companies follow different guidelines, and therefore some may be unwilling to write insurance for more remote areas, or may have structural prohibitions.

CHAIR OLSON commented that bush fires are often "total losses," [which may deter insurance companies from covering those who live in remote areas].

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MS. HALL then discussed solvency. She opined that this is the primary function of the Division. Referring to a 2003 workers' compensation insolvency, she explained how the Division recovered from a failure of the guarantee fund.

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MS. HALL went on to say that the guarantee fund is "adequate," although may not cover the maximum liability. The surcharge was increased from two to four percent, which is a burden when combined with the cost of premiums.

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MS. HALL, in response to a question from Representative Neuman regarding the claims process for workers' compensation, stated that she does not oversee the Division of Workers' Compensation. She offered her understanding that first, the injured employee notifies his or her employer. The employer then notifies the insurance company, as well as the Department of Labor & Workforce Development (DLWD). The insurance company then investigates and takes over for the employer. There are time limits for payment of lost wages and medical bills. If there is a dispute, this is turned in to the Workers' Compensation Board.

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REPRESENTATIVE RAMRAS, in regard to the aforementioned guarantee fund failure, said "the fact that remains, is that you and your stewardship at the Division of Insurance saved our [workers' compensation] system from going off the cliff. ... You should get a great deal of credit for that. It was a job well done."

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MS. HALL said "I very much appreciate the comments. It was a legislative effort by a number of people. ... I certainly can't take credit for that by myself."

REPRESENTATIVE BUCH expressed concern regarding the current system. He opined that recent changes are "worthy of careful consideration."

MS. HALL replied that these concerns are well-founded. She said "I would like to think there are some things that are changing, but I think it's too soon to tell that."

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REPRESENTATIVE GATTO pointed out that both private enterprise and government suffered from the failure of the guarantee fund. He questioned how much evaluation can be done in order to avoid this in the future.

MS. HALL opined that all parties involved are carefully considering these concerns. In response to further questions, she explained that if the Division suspects that a company is under-funded, it may prevent the company from operating in the state. The Division may also perform a "targeted market conduct examination," in order to determine whether ratings and filings are appropriate.

CHAIR OLSON requested a comparison between the insolvency of an insurance company that is domiciled in Alaska and a company that is not, specifically related to workers' compensation.

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MS. HALL replied that the Division oversees those companies domiciled in Alaska and provides "sufficient oversight." However, it does not regulate those headquartered out-of-state, relying on the local regulatory agency to oversee these companies. She said "we have more control over a company that [is domiciled in Alaska]."

CHAIR OLSON, in regard to the company involved in the aforementioned workers' compensation insolvency, pointed out that the company in question was domiciled in California.

MS. HALL commented that the as a result of the insolvency, the state of California loaned the guarantee fund \$5 million, which has since been repaid.

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REPRESENTATIVE LEDOUX asked if the Division has the authority to require insurance companies to post a bond ensuring solvency.

MS. HALL replied no.

REPRESENTATIVE LEDOUX inquired as to whether the Division would require this, if given the authority.

MS. HALL replied that this would need further consideration. In response to an additional question, she stated that she is not aware of any states that require this type of bond. Moving on to Regulatory Modernization, she explained several changes have been made in an effort to "make [Alaska] an easier place to do business." She explained the "interstate compact," which allows life insurance companies to make filings in a centralized location. The Division has created "file and use" forms, in addition to an internal information technology (IT) project, to streamline the process of business with the Division. Finally, the Division offers electronic licensing.

MS. HALL went on to discuss regulatory issues. Recent legislation limited the surrender charges on annuities sold to seniors, as well as suitability regulations. The disciplinary concerns include unlicensed activity. She added that the Division may revoke licenses for statutory violations, and relayed a story of a recent revocation. License revocations are reported to a national database. Finally, the state is involved in several multi-state investigations and consent orders.

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MS. HALL, in regard to credit scoring, stated that she does not have an update. She opined that Alaska has "one of the more stringent credit scoring statutes in the country." The state is currently before the Supreme Court regarding a credit score interpretation done by the Division, and will not have an update until the decision is known. In response to questions, she explained that a correlation has been shown between an individual's credit score and the number of insurance claims. Individuals with lower credit scores are more likely to have an insurance claim, she said. Consequently, an individual with a

higher credit score and a poor driving record will still have a better insurance premium.

Chair Olson commented that the reason for this correlation is not known, and this has raised discrimination concerns.

MS. HALL, in response to additional questions, stated that credit scoring does work, although the reason is unknown. While credit scoring is allowed, concerns have been raised, and certain limitations apply. This is not a new practice, she said. She explained that several variables are taken into consideration when underwriting insurance, such as age, location, and type of car; however, this is not "credit scoring." The formula used for home loans is not the same as that used for insurance purposes.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at [4:48:02 PM](#).