

SENATE BILL NO. 11

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

BY SENATORS STEDMAN, Bjorkman, Dunbar, Yundt

Introduced: 1/22/25

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to flood insurance; relating to property insurance; establishing the**
2 **Alaska Flood Authority and the Alaska flood insurance fund; and providing for an**
3 **effective date."**

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

5 * **Section 1.** AS 21.39.030(a) is amended to read:

6 (a) Rates, including loss costs under AS 21.39.043 or any other provision of
7 law, shall be made in accordance with the following provisions:

8 (1) rates **may** [SHALL] not be excessive, inadequate, or unfairly
9 discriminatory;

10 (2) consideration shall be given to past and prospective loss experience
11 inside and outside this state; to the conflagration and catastrophe hazards; to a
12 reasonable margin for underwriting profit and contingencies; to dividends, savings, or
13 unabsorbed premium deposits allowed or returned by insurers to their policyholders,
14 members, or subscribers; to past and prospective expenses both countrywide and those

1 specially applicable to this state; and to all other relevant factors inside and outside
2 this state;

3 (3) the systems of expense provisions included in the rates for use by
4 an insurer or group of insurers may differ from those of other insurers or **groups**
5 [GROUP] of insurers to reflect the requirements of the operating methods of the
6 insurer or group of insurers with respect to any kind of insurance, or with respect to a
7 subdivision or combination thereof for which subdivision or combination separate
8 expense provisions are applicable;

9 (4) risks may be grouped by classifications for the establishment of
10 rates and minimum premiums; classification rates may be modified to produce rates
11 for individual risks in accordance with rating plans that establish standards for
12 measuring variations in hazards or expense provisions, or both; the standards may
13 measure any differences among risks that can be demonstrated to have a probable
14 effect **on** [UPON] losses or expenses;

15 (5) in the case of fire insurance rates, consideration may be given to
16 the experience of the fire insurance business during a period of not more than the most
17 recent five-year period for which experience is available;

18 (6) when there is an established program to inspect new and existing
19 dwellings and the program has been certified by the director as likely to reduce the
20 incidence of fires in inspected dwellings, then in any rate plan used in this state,
21 dwellings that have been found by the inspection to meet the standards established by
22 the program shall have credits applied to the rate in amounts approved by the director;

23 **(7) in the case of flood insurance rates, primary consideration shall**
24 **be given to actual historical flood and damage data on the real and personal**
25 **property proposed to be insured.**

26 * **Sec. 2.** AS 21.39.030(c) is amended to read:

27 (c) In this section,

28 **(1)** "dwelling" means a residential structure containing not more than
29 four family living units;

30 **(2)** "**flood**" means

31 **(A)** **a general and temporary condition of partial or**

1 **complete inundation of normally dry land area from**

2 **(i) overflow of inland or tidal water;**

3 **(ii) unusual and rapid accumulation or runoff of**
 4 **surface water from any source;**

5 **(iii) snow or ice melt;**

6 **(iv) an atmospheric river; or**

7 **(v) mudflow; or**

8 **(B) the collapse or subsidence of land along the shore of a**
 9 **lake or similar body of water because of erosion or undermining caused**
 10 **by waves or currents of water exceeding anticipated cyclical levels that**
 11 **results in a condition described in (A) of this paragraph.**

12 * **Sec. 3.** AS 21.60 is amended by adding new sections to read:

13 **Article 2. Alaska Flood Authority.**

14 **Sec. 21.60.100. Creation; membership; information from members.** The
 15 Alaska Flood Authority is created to increase the availability of flood insurance in the
 16 state. The authority is a nonprofit incorporated legal entity. The membership of the
 17 authority consists of all insurers licensed to transact property insurance business in the
 18 state. As a condition of transacting property insurance business in the state, an insurer
 19 shall

20 (1) maintain membership in the authority;

21 (2) submit reports and provide information required by the board or the
 22 director to implement AS 21.60.100 - 21.60.300.

23 **Sec. 21.60.110. Board; organization; report.** (a) The board of the authority
 24 consists of

25 (1) three members, selected by authority members, who represent
 26 insurers licensed to transact property insurance business in the state, subject to
 27 approval by the director;

28 (2) two members, selected by the director, who represent consumers of
 29 property insurance required by the federal government to obtain flood insurance in a
 30 special flood hazard area;

31 (3) one member, selected by the director, who represents the private

1 banking and mortgage industry in the state; and

2 (4) one member, selected by the director, who represents the Alaska
3 Housing Finance Corporation.

4 (b) The director is a nonvoting ex officio member of the board. In approving
5 members of the board under (a)(1) of this section, the director shall consider, among
6 other things, whether all types of authority members are fairly represented.

7 (c) A member of the board serves for a term of three years and may be
8 reappointed to an unlimited number of terms. The term of a board member shall
9 continue until a successor is appointed.

10 (d) At authority meetings, an authority member is entitled to one vote in
11 person or by proxy. At board meetings, a board member is entitled to one vote in
12 person or by proxy.

13 (e) The authority may reimburse a member of the board for expenses incurred
14 as a result of board activities but may not otherwise compensate a member of the
15 board for services. The costs of conducting meetings of the authority and the board are
16 the responsibility of the members of the authority.

17 (f) On or before September 1 of each year, the board shall prepare a report
18 reviewing the operations of the previous year and deliver the report to the state's
19 congressional delegation, the governor, the senate secretary, and the chief clerk of the
20 house of representatives and notify the legislature that the report is available. In the
21 report, the board shall

22 (1) analyze the effectiveness of the operations of the authority and
23 insurance program under AS 21.60.100 - 21.60.300;

24 (2) evaluate the benefits of the insurance program under AS 21.60.100
25 - 21.60.300 as compared to 42 U.S.C. 4001 - 4131 (National Flood Insurance Act) for
26 property owners and communities in the state; and

27 (3) identify penalties or sanctions imposed or potentially imposed on
28 individuals and communities in the state by the federal government under 42 U.S.C.
29 4001 - 4131 (National Flood Insurance Act).

30 **Sec. 21.60.120. Powers of the authority.** The authority may

31 (1) exercise the powers granted to insurers under the laws of the state;

- 1 (2) sue or be sued;
- 2 (3) enter into contracts with insurers, similar authorities in other states,
3 or other persons for the performance of administrative functions;
- 4 (4) establish administrative and accounting procedures for the
5 operation of the authority; and
- 6 (5) receive funds from sources other than members of the authority.

7 **Sec. 21.60.130. Plan of operation.** (a) The authority shall submit to the
8 director a plan of operation to ensure the fair, reasonable, and equitable administration
9 of the authority. The authority may submit amendments to the plan of operation to the
10 director. The plan of operation and amendments become effective upon approval in
11 writing by the director.

12 (b) Each member of the authority shall comply with the plan of operation.

13 (c) The plan of operation must contain the following:

- 14 (1) procedures for the performance of all the powers and duties of the
15 authority under AS 21.60.100 - 21.60.300;
- 16 (2) procedures for handling assets of the authority;
- 17 (3) the amount of reimbursement and method for reimbursing
18 members of the board under AS 21.60.110(e);
- 19 (4) the regular places and times at which meetings of the board will
20 take place;
- 21 (5) record-keeping procedures for all financial transactions of the
22 authority, agents of the authority, and the board;
- 23 (6) a provision stating that a member of the authority aggrieved by a
24 final action or decision of the authority may appeal to the director within 30 days after
25 the action or decision is made;
- 26 (7) procedures for submitting board member selections to the director
27 for approval;
- 28 (8) additional provisions necessary or proper for the execution of the
29 powers and duties of the authority.

30 **Sec. 21.60.140. Administrative Procedure Act.** The authority is exempt from
31 AS 44.62 (Administrative Procedure Act).

1 **Sec. 21.60.150. Tax exemption.** The authority is exempt from the payment of
2 fees and taxes levied by the state or any of its political subdivisions except taxes levied
3 on real or personal property or under AS 21.09.210.

4 **Sec. 21.60.160. Types of insurance plans.** The authority shall make available
5 to a person who is eligible for coverage under AS 21.60.100 - 21.60.300 at least one
6 state plan of flood insurance. The authority may not refuse coverage under a state plan
7 to a person who is eligible under AS 21.60.100 - 21.60.300, applies for coverage, and
8 pays the required premium.

9 **Sec. 21.60.170. Coverage and terms of state flood insurance plan.** (a)
10 Except as provided in (b) of this section, the coverage of a flood insurance plan
11 offered under AS 21.60.160 shall be the same as the coverage provided under a
12 standard flood insurance policy offered by the National Flood Insurance Program
13 established by 42 U.S.C. 4001 - 4131 (National Flood Insurance Act), including
14 minimum amounts of coverage, deductibles, exclusions, and conditions.

15 (b) A flood insurance plan must set the maximum amount of coverage for a
16 residential property at \$1,000,000 and the maximum amount of coverage for a
17 commercial property at \$2,000,000. A flood insurance plan may not include a
18 requirement that a flood must inundate a certain amount of normally dry land area or
19 properties to be covered.

20 (c) The terms of a plan offered under AS 21.60.160 must contain

21 (1) a requirement to provide the notice of cancellation or nonrenewal
22 required by AS 21.36.220 and 21.36.240 to

23 (A) the insured; and

24 (B) the regulated lending institution or federal agency lender;

25 (2) a mortgage interest clause similar to the clause contained in a
26 standard flood insurance policy under the National Flood Insurance Program;

27 (3) notwithstanding AS 09.10.053, a provision requiring an insured to
28 file suit not later than one year after the date of a written denial of all or part of a claim
29 under the policy; and

30 (4) cancellation provisions that are as restrictive as the provisions
31 contained in a standard flood insurance policy under the National Flood Insurance

1 Program.

2 **Sec. 21.60.180. State plan premiums.** (a) The authority may not charge a rate
3 for flood insurance coverage that is excessive, inadequate, or unfairly discriminatory.

4 (b) The board shall determine flood insurance premium rates by primarily
5 considering the actual historical flood and damage data on the real and personal
6 property proposed to be insured. The board shall submit premium rates to the director
7 for approval before use.

8 (c) The board may retain an actuary or other consultant as may be necessary to
9 determine flood insurance premium rates and to perform other assigned duties.

10 **Sec. 21.60.190. Duties of authority.** (a) The authority shall perform the
11 administrative and claims payment functions required by this section.

12 (b) The authority shall provide to all eligible persons enrolled in a state plan a
13 policy setting out a statement of the insurance protection to which the person is
14 entitled, with whom claims are to be filed, and to whom benefits are payable. The
15 policy must indicate that coverage was obtained through the authority.

16 (c) The authority shall submit to the director on a semiannual basis a report on
17 the plan of operation. The director shall determine the specific information the report
18 must contain.

19 (d) The authority shall pay claims and shall indicate when a claim is paid
20 under a state plan. A claim payment must include a telephone number that can be used
21 for inquiries regarding the claim.

22 **Sec. 21.60.200. Funding for authority and insurance program; penalties.**

23 (a) Each member of the authority shall share the losses of the insurance program
24 established under AS 21.60.100 - 21.60.300 insuring real and personal property and
25 improvements to real property within a special flood hazard area in the state. Each
26 member of the authority shall pay member dues. Dues under this section must be
27 sufficient to cover the operating and administrative expenses of the authority. The
28 board shall determine member dues under this section.

29 (b) In addition to the member dues collected under (a) of this section, the
30 board shall make an annual determination of each member's liability under (a) of this
31 section, if any, and may make an annual fiscal year end assessment if necessary to

1 operate the insurance program. The board may also provide for interim assessments
 2 against the members as may be necessary to ensure the financial capability of the
 3 authority to pay claims and operate the insurance program until the authority's next
 4 annual fiscal year end assessment. The board may make assessments under this section
 5 that are sufficient to operate the insurance program. The board may decline to levy an
 6 assessment against a member if the assessment would be minimal.

7 (c) Payment of an assessment is due within 30 days after a member receives
 8 written notice of a fiscal year end or interim assessment. A member that no longer
 9 does business in the state remains liable for assessments until the board determines
 10 under (b) of this section that no assessment is due. Assessments paid by a member are
 11 a general expense of the member. If a member fails to pay a fiscal year end or interim
 12 assessment as required in this subsection,

13 (1) the member shall pay a civil penalty to the director in the amount
 14 of \$100 for each day the member fails to pay the required assessment; and

15 (2) the director may revoke the member's certificate of authority.

16 (d) If the total amount of member liability calculated under (b) of this section
 17 is insufficient to satisfy a legally authorized claim against the insurance program under
 18 AS 21.60.100 - 21.60.300, the legislature may appropriate up to a total of \$5,000,000
 19 from cash reserves of the Alaska Housing Finance Corporation to the Department of
 20 Commerce, Community, and Economic Development to satisfy the unpaid claim.

21 **Sec. 21.60.210. Eligibility for state flood insurance.** A person determined by
 22 the authority to have an insurable interest in insurable property is eligible to enroll in a
 23 state plan described in AS 21.60.160. Additional eligibility requirements for
 24 enrollment in a state plan may be imposed if approved by the director.

25 **Sec. 21.60.220. Enrollment by an eligible person.** A person may apply to
 26 enroll in a state plan by applying to the authority. The application must include

27 (1) the name, address, and age of the applicant;

28 (2) a description of the property to be insured sufficient for the
 29 authority to investigate and determine its insurability;

30 (3) a designation of the plan desired; and

31 (4) any other information requested by the authority.

1 **Sec. 21.60.230. Response by the authority.** Within 30 days after receiving the
2 application described in AS 21.60.220, the authority shall provide the applicant with
3 either a notice of rejection for failing to comply with the requirements of
4 AS 21.60.210 and 21.60.220 or a notice of acceptance.

5 **Sec. 21.60.240. Effective date of insurance under a state plan.** Insurance
6 under a state plan takes effect immediately upon receipt of the first premium if the
7 applicant otherwise complies with the requirements of AS 21.60.100 - 21.60.300.

8 **Sec. 21.60.250. Solicitation of eligible persons.** (a) The authority, under a
9 plan approved by the director, shall communicate to persons who reside or own
10 property in a special flood hazard area the existence of the state plan and the means of
11 enrollment. Means of communication may include electronic mail, use of the Internet,
12 press, radio, and television, as well as publication through appropriate state offices,
13 state publications, and Internet websites.

14 (b) A person may not sell or market a qualified state plan unless the person is
15 acting within the scope of a license issued in this state.

16 (c) An insurer that rejects or applies underwriting restrictions to an applicant
17 for a flood insurance policy in the state shall notify the applicant of the existence of
18 the state plan, the requirements for being accepted, and the procedure for applying.

19 **Sec. 21.60.260. Duties of director; insurance program.** The director shall
20 formulate general policy and, after notice and hearing, adopt regulations that are
21 reasonably necessary to administer AS 21.60.100 - 21.60.300.

22 **Sec. 21.60.270. State not liable.** The state is not liable for acts or omissions of
23 the authority under AS 21.60.100 - 21.60.300.

24 **Sec. 21.60.280. Board member civil and criminal immunity.** A member of
25 the board may not be held civilly or criminally liable for an act or omission if the act
26 or omission was in good faith and within the scope of the board member's duties under
27 AS 21.60.100 - 21.60.300.

28 **Sec. 21.60.290. Alaska flood insurance fund.** (a) The Alaska flood insurance
29 fund is established as a separate fund in the state treasury. Premiums, dues, and
30 assessments collected shall be separately accounted for and deposited into the fund.
31 Investment earnings and interest earned on the fund shall be retained in the fund.

1 (b) The legislature may appropriate the annual estimated balance in the fund to
 2 the Department of Commerce, Community, and Economic Development to operate the
 3 authority and fund the insurance program under AS 21.60.100 - 21.60.300.

4 (c) Payment for claims under the insurance program under AS 21.60.100 -
 5 21.60.300 is subject to appropriation.

6 (d) Money in the fund does not lapse.

7 (e) Nothing in this section creates a dedicated fund.

8 (f) Money in the fund may be invested in the same manner and on the same
 9 conditions as permitted for investment of money belonging to the state or held in the
 10 treasury under AS 37.10.070.

11 **Sec. 21.60.300. Definitions.** In AS 21.60.100 - 21.60.300,

12 (1) "authority" means the Alaska Flood Authority;

13 (2) "board" means the board of the Alaska Flood Authority;

14 (3) "flood" means

15 (A) a general and temporary condition of partial or complete
 16 inundation of normally dry land area from

17 (i) overflow of inland or tidal water;

18 (ii) unusual and rapid accumulation or runoff of surface
 19 water from any source;

20 (iii) snow or ice melt;

21 (iv) an atmospheric river; or

22 (v) mudflow; or

23 (B) the collapse or subsidence of land along the shore of a lake
 24 or similar body of water because of erosion or undermining caused by waves
 25 or currents of water exceeding anticipated cyclical levels that results in a
 26 condition described in (A) of this paragraph;

27 (4) "insurable interest" has the meaning given in AS 21.42.030;

28 (5) "insurable property" means real property located in a special flood
 29 hazard area in the state and the personal property located on the real property;

30 (6) "property insurance" has the meaning given in AS 21.12.060;

31 (7) "special flood hazard area" means the land in a flood plain in a

1 community subject to a chance of flooding in any given year of one percent or greater
2 where federally mandated purchase of flood insurance applies.

3 * **Sec. 4.** AS 37.05.146(c) is amended by adding a new paragraph to read:

4 (88) assessments and civil penalties collected under AS 21.60.200.

5 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 **APPLICABILITY.** Section 1 of this Act applies to an insurance policy or contract
8 entered into or renewed on or after the effective date of sec. 1 of this Act.

9 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 **TRANSITION: PLAN OF OPERATION.** If the Alaska Flood Authority fails to
12 submit a suitable plan of operation by January 1, 2027, the director of the division of
13 insurance may adopt regulations to carry out the provisions of this Act. The director shall
14 repeal regulations superseded by a plan submitted by the authority and approved by the
15 director.

16 * **Sec. 7.** This Act takes effect July 1, 2026.