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IN THE HOUSE

BY MR. EASTAUGH
BY REQUEST

HOUSE BILL NO. 179

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

TWENTY-FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing and regulating ~~the~~
the exchange of inter-insurance contracts
by foreign reciprocals or interinsurers;
Defining the kinds of insurance which may
be the subject of such contracts; provid-
ing for the issuance of licenses, and
fixing the penalties for violations of
the provisions hereof; ~~and declaring an~~
~~emergency.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

Section 1. Any reciprocal exchange or interinsurer formed
and doing business under the laws of any state of the United
States, other than the Territory of Alaska, for the purpose of
transacting any or all of the kinds of insurance which an in-
surance company may be authorized to transact in this state,
other than life or title insurance, may be permitted to trans-
act such business in this ^{territory} state upon complying with the provi-
sions of this chapter.

Individuals, partnerships, trustees and all corporations
of this territory, herein designated "subscribers," are hereby
authorized to exchange reciprocal or interinsurance contracts
with each other and with individuals, partnerships, trustees
and corporations of other states.

The right of a corporation to exchange such contracts is

Amended

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1 hereby declared to be incidental to the purpose for which such
2 corporation is organized and as much granted as the rights and
3 powers expressly conferred. Whenever a trustee acting in a
4 representative capacity insures property held in trust at a
5 reciprocal exchange, the trustee may assume the liability and
6 be entitled to the rights of a subscriber but in so doing shall
7 not be personally or individually ~~be~~ liable under the power of
8 attorney executed on behalf of the trust.

9 Such contracts and the exchange thereof and such subscrib-
10 ers, their attorneys in fact and representatives, shall be
11 regulated by this act and by no other statute of this territory
12 relating to insurance, except as herein otherwise specifically
13 provided.

14 Section 2. Such contracts shall be executed by an attor-
15 ney in fact, herein designated "attorney," duly authorized and
16 acting for such subscribers, and such attorney may be a foreign
17 corporation.

18 Section 3. Such attorney shall file with the Insurance
19 Commissioner of this territory, herein referred to as the "Com-
20 missioner," a declaration verified by the oath of such attorney,
21 or when such attorney is a corporation, by the oath of its
22 president or oaths of its treasurer and secretary setting forth

23 (a) The name of the attorney and the name or desig-
24 nation of the exchange under which such contracts are to
25 be issued, which name or designation shall not be so
26 similar to any other name or designation, theretofore
27 adopted by an attorney or by any insurance organization in
28 this territory so as to confuse or mislead.

29 (b) The kind or kinds of insurance to be effected or

1 exchanged.

2 (c) A copy of the form of policy contract or agree-
3 ment under or by which such insurance is to be effected
4 or exchanged and forms of application therefor.

5 (d) A certified copy of the power of attorney or
6 other authorization of such attorney under or by which such
7 attorney is to effect or exchange such insurance contracts.

8 (e) The location of the office or offices from which
9 such contracts or agreements are to be issued.

10 (f) That except as to the kinds of insurance herein-
11 after specifically mentioned applications have been made
12 for insurance upon at least one hundred separate risks,
13 the liability to the exchange for premiums due thereon
14 shall aggregate not less than \$500,000, represented by
15 executed contracts or bona fide applications to become
16 concurrently effective; or, in lieu thereof the exchange
17 or interinsurer is possessed of a surplus of not less than
18 \$300,000. The minimum amount of surplus established as a
19 requirement for the writing of other lines of insurance as
20 specified elsewhere in this section shall be in addition
21 to that required by the provisions of this paragraph.

22 (1) In the case of employers liability or work-
23 men's compensation insurance, applications shall have
24 been made for indemnity upon at least one hundred
25 separate risks having a total annual premium of not
26 less than \$2,500,000 as represented by executed con-
27 tracts or bona fide applications to become concurrently
28 effective; or, in lieu thereof the exchange or inter-
29 insurer is possessed of a surplus of not less than

1 \$100,000.

2 (ii) In the case of automobile insurance, ap-
3 plications shall have been made for insurance for at
4 least two hundred separate risks or for insurance the
5 premiums due the exchange thereon shall aggregate not
6 less than \$200,000 represented by executed contracts
7 or bona fide applications to become concurrently ef-
8 fective on any or all classes of automobile insurance
9 effected by said subscribers through said attorney;
10 or, in lieu thereof the exchange or interinsurer is
11 possessed of a surplus of not less than \$100,000.

12 (iii) The surplus as hereinbefore provided for
13 in this section shall not be acceptable unless in-
14 vested in securities of the United States of America,
15 the Territory of Alaska, or any other state of the
16 United States or political subdivision thereof.

17 (g) That there shall be maintained at the exchange,
18 available for the payment of losses, assets conforming to
19 the requirements of "Section 5" hereof.

20 (h) A financial statement under oath in the form
21 prescribed by the commissioner.

22 (i) An instrument authorizing service of process as
23 provided for in this act; and

24 (j) A certificate from the proper official of the
25 state where the principal office is maintained, that the
26 subscribers and the attorney have complied with all pro-
27 visions of law and are authorized in that state to trans-
28 act the classes of business which are sought to be trans-
29 acted in this territory.

1 Section 4. Every policy or contract of insurance placed
2 or written under this Act, upon its issuance and delivery,
3 shall have permanently attached thereto an endorsement reading
4 as follows:

5 "Service of Suit Clause. It is agreed that, in the event
6 of dispute as to the validity of any claim made by the assured
7 under this policy or contract of insurance, the insurer and
8 insurers hereon, at the request of the assured, (a) will submit
9 to the jurisdiction of the District Court for the Territory of
10 Alaska in that Judicial Division in the discretion of the as-
11 sured, in which is located the insured property or the assured's
12 residence, or the assured's principal office or place of busi-
13 ness, and (b) will comply with all legal requirements neces-
14 sary to give such court jurisdiction, and, (c) in any suit in-
15 stituted by the assured against any one or more of the insurers
16 upon this contract, will abide by the final decision of such
17 court or any appellate court in the event of an appeal; provided
18 however, where in any suit the amount in dispute is such as to
19 give jurisdiction to the Commissioner's Court of the Precinct
20 in which is located the insured property, or the assured's
21 residence, principal office or place of business the insurers,
22 at the request of the assured, will submit to the jurisdiction
23 of such commissioner's Court in such suit. It is further agreed
24 that the insurer and insurers hereon will promptly pay all *fees and*
25 taxes and make all statements to the Insurance Commissioner as
26 required by Sections ^{42-1-13,} 42-1-14 and 42-1-15, ACLA 1949, and all
27 amendments thereto."

28 Section 5. Service of process may be had upon the commis-
29 sioner in all suits in this territory arising out of any poli-
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1 oies, contracts or agreements issued, which service shall be
2 valid and binding upon all subscribers exchanging at any time
3 reciprocal or interinsurance contracts through such attorney.
4 Three copies of such process shall be served and the commissioner
5 shall file one copy in his office, forward one copy to said
6 attorney and return one copy with his admission of service.
7 Service of process may also be had upon all subscribers by serv-
8 ing the attorney at said office. Service of process shall not
9 be had upon subscribers or any of them in any suit or proceed-
10 ing in this territory, except in the manner provided in this
11 section, and any suit or other proceeding may be begun and prose-
12 cuted or defended by them under the name or designation adopted
13 by them.

14 Section 6. If it shall appear upon examination by the
15 commissioner that an exchange or interinsurer has complied with
16 all of the requirements of this chapter and that the persons
17 holding positions of executive and managerial authority are of
18 good repute and will conduct the affairs of the exchange with
19 safety to the public and its policy holders, he shall issue a
20 certificate stating that such exchange or interinsurer has com-
21 plied with all the requirements of this chapter which shall
22 authorize the exchange or interinsurer to transact the kind of
23 business specifically provided in such certificate. Such cer-
24 tificate shall expire on the thirtieth day of June of the
25 following year, and shall be renewed every year as of the first
26 day of July thereof. The commissioner may after hearing revoke
27 or suspend any certificate of authority issued hereunder in the
28 case of violation of any of the provisions of this chapter, after
29 reasonable notice of the hearing has been given to the attorney

1 in fact in writing, which notice shall be sufficiently adequate
2 to allow the attorney in fact to appear and show cause why such
3 action should not be taken.

4 Section 7. There shall be maintained at all times by the
5 exchange, a reinsurance reserve in cash or securities authorized
6 by the laws of the state in which the principal office of the
7 attorney is located for the investment of similar funds of
8 insurance companies doing the same kind of business, in an
9 amount equal to fifty per centum (50%) of the net annual prem-
10 ium deposits collected and credited to the accounts of sub-
11 scribers on policies having one year or less to run and pro rata
12 on those for longer periods or, in lieu thereof one hundred per
13 centum (100%) of the net unearned premium deposits collected
14 and credited to the accounts of subscribers calculated sepa-
15 rately for each policy in force as of any given date.

16 In addition to the reserves provided for in this section
17 there shall also be maintained at all times by the exchange, as
18 assets, a contingent reserve in cash or such securities as afore-
19 said of not less than the amount of minimum capital required of
20 a stock insurance company incorporated under the law of any
21 other state of the United States to do the kind or kinds of in-
22 surance which the exchange is authorized to write under "Sec-
23 tion 1" of this act.

24 There shall also be maintained at all times in the hands
25 of the attorney, as a claim or loss reserve, in cash or securi-
26 ties as aforesaid, assets sufficient to discharge all liabili-
27 ties on all outstanding or accrued losses arising under poli-
28 cies issued, which are to be calculated in accordance with the
29 laws of the territory relating to similar reserves for companies

1 insuring similar risks.

2 If at any time the amounts on hand are less than the fore-
3 going requirements, the subscribers, or their attorney for them,
4 shall make up the deficiency.

5 Net premium deposits as used in this act, shall be con-
6 strued to mean the premium deposits made by subscribers after
7 deduction therefrom the amount paid as return premiums upon
8 cancelled contracts and reinsurance in companies or associa-
9 tions licensed to do business in this territory.

10 If it appears that the amount of funds required in this
11 section has not been accumulated or maintained, then the sub-
12 scribers, or the attorney for them, shall immediately advance
13 such sums as are needed to comply with the provisions of this
14 section, and the funds so advanced shall not be treated as a
15 liability of the exchange, and such advances shall be repaid
16 only out of the surplus, over and above the minimum required by
17 this section. If the subscribers, or their attorneys for them,
18 shall fail to advance sums necessary for the maintenance of
19 such minimum reserves and surplus within thirty days after re-
20 ceipt of notice from the commissioner, said commissioner may
21 revoke its license to transact business in this territory.

22 Section 8. A foreign reciprocal exchange or interinsurer
23 shall, before being authorized to do business in this state,
24 furnish to the commissioner a certificate issued by a state
25 treasurer or other state financial officer of the state wherein
26 its principal place of business is located, that there has been
27 deposited with him either in cash or securities the sum of
28 \$100,000 for the benefit of all policy holders.

29 Section 9. The power of attorney under which any contracts

1 of insurance are exchanged pursuant to this act shall provide
2 for a cash premium deposit and a contingent liability of the
3 subscriber during each annual period of the term of each con-
4 tract of insurance issued to him to be fixed in the power of
5 attorney, but in an amount not less than one nor more than ten
6 times the amount of the annual portion of such cash premium
7 deposit stated in the contract, except that exchanges which have
8 a required surplus equal to \$350,000 or to the minimum capital,
9 if any, required of a stock insurance company transacting the
10 same kind or kinds of business, whichever is greater, may issue
11 policies without contingent liability; provided, however, that
12 any such exchange which shall have issued policies without con-
13 tingent liability after the acquisition of such surplus may
14 continue to do so only so long as it maintains a surplus in
15 the above amount, and no such exchange shall issue any non-
16 assessable policies, except during such time as it shall con-
17 tinue to maintain such surplus.

18 Section 10. Such attorney shall, within the time limited
19 for filing the annual statement by insurance companies transact-
20 ing the same kind of business, make a report under oath to the
21 commissioner for each calendar year in such form as he may pre-
22 scribe, showing the financial condition of such affairs at the
23 office where such contracts are issued, and shall at any reason-
24 able time furnish such additional information and reports as
25 may be required by said commissioner. The records, affairs and
26 financial condition of the exchange shall be subject to examina-
27 tion by the commissioner, and such examination shall be at the
28 expense of the office examined. The commissioner may, in lieu
29 of the examination provided for in this section, accept a

1 certified copy of the report of examination made by the insur-
2 ance department of the state where the principal office is
3 located.

4 Section 11. Any attorney who shall exchange any contracts
5 of insurance of the kind and character specified in this act,
6 or any attorney or representative of such attorney who shall
7 solicit or negotiate any applications for same without the
8 attorney first complying with the provisions of this act, shall
9 be guilty of a misdemeanor, and upon conviction thereof shall
10 be subjected to a fine of not less than \$100 nor more than \$1000.

11 For the purposes of complying with the requirements of this
12 act as set forth in "Section 3(f)" and upon issuance of a permit
13 by the commissioner and under such conditions as he may impose,
14 powers of attorney and applications for such insurance con-
15 tracts may be solicited without compliance with the provisions
16 of this act, but no attorney or other person shall execute or
17 issue any such contracts of insurance until all the provisions
18 of this act shall have been complied with and certificate of
19 authority issued by the commissioner.

20 Section 12. The attorney may insert in any form of policy
21 prescribed by the laws of this territory or adopted by this
22 territory any provisions or conditions required by the plan of
23 reciprocal or interinsurance; provided, however, that the same
24 shall not be in conflict with the laws of this territory.

25 Section 13. Such exchanges shall be subject to the same
26 fees and taxes as are provided by the laws of this territory,
27 now or hereafter enacted, applicable to insurance companies
28 organized or admitted to do the same kind or kinds of business
29 under the laws of this territory.

1 Section 14. The provisions of the general insurance laws
2 of this territory regarding the appointment, licensing, quali-
3 fication and regulation of insurance agents and solicitors shall
4 not apply to an exchange or its attorney, or to a traveling
5 salaried employee, or to an executive officer of such attorney
6 if a corporation, but shall apply to any other person, partner-
7 ship or corporation representing any such reciprocal or inter-
8 insurance exchange in soliciting, negotiating or effecting of
9 business in this territory.

10 Section 15. The provisions of the laws of this territory
11 regulating the making and applying of insurance rates and pro-
12 viding for the licensing of rating organizations as set forth
13 in Sections 42-4-1 through 42-4-21, Alaska Compiled Laws Anno-
14 tated 1949, and any amendments thereof, shall apply to recipro-
15 cal or interinsurance contracts, but nothing therein contained
16 shall be construed to prohibit the return of savings or divi-
17 dends to subscribers or policy holders. No reciprocals exchange
18 or interinsurer shall issue or deliver any policy insuring
19 property or interests in this territory, the liability on which
20 shall exceed an amount equivalent to ten per centum (10%) of its
21 surplus unless the excess of liability over said ten per centum
22 (10%) is reinsured in a ^{reciprocal} company which maintains financial stan-
23 dards at least equal to those required by the laws of this
24 territory.

25 Section 16. Employers are hereby expressly authorized to
26 exchange contracts of workmen's compensation insurance, at any
27 reciprocal exchange licensed in this territory to do that kind
28 of business, but all such exchanges shall be subject to the pro-
29 visions of this territory relating to the business of workmen's

1 compensation insurance.

2 Section 17. The retaliatory laws of this territory shall
3 be applicable to reciprocal or interinsurance exchanges.

4 Section 18. Any party in interest aggrieved by any order
5 or decision of the commissioner or by any rule or regulation
6 adopted and promulgated by the commissioner may within thirty
7 days after notice thereof to other known parties in interest
8 make written request to the commissioner for a hearing thereon.
9 Within twenty days after receipt of such written request the
10 commissioner shall hear such party or parties and shall give
11 not less than ten days written notice of the time and place
12 of the hearing. Within fifteen days after such hearing the
13 commissioner shall affirm, reverse or modify his previous ac-
14 tion, specifying his reasons therefor. Pending such hearing
15 and decision thereon the commissioner may suspend or postpone
16 the effective date of his previous action. At any hearing
17 before the commissioner observance of formal rules of pleading
18 or evidence shall not be required.

19 Any final order or decision of the commissioner shall be
20 subject to review by petition filed within twenty days after
21 notice thereof at the instance of any party in interest in the
22 District Court for the Territory of Alaska, and the matter
23 shall be heard de novo in the District Court and decisions on
24 issues of fact therein shall be in accordance with the pre-
25 ponderance of the evidence there presented. The court shall
26 determine whether the order or decision of the commissioner
27 shall be stayed pending such review. The court may, in dis-
28 posing of the issue before it, modify, affirm or reverse the
29 order of decision of the commissioner in whole or in part.

1 Appeal may be taken from the decision of the district court to
2 the United States Court of Appeals for the Ninth Circuit, and
3 such appeal shall follow the court of equity.

4 Section 19. In the event any section, part or provisions
5 of this act are held to be illegal, the same shall not affect
6 any other section, part or provisions of the act, but the remain-
7 ing section, parts and provisions shall be and remain in full
8 force and effect.

9 Section 20. An emergency is hereby declared to exist and
10 this act shall take effect immediately upon its passage and
11 approval.

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