

1 IN THE SENATE

BY THE RULES COMMITTEE  
BY REQUEST OF THE GOVERNOR

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SENATE BILL NO. 112

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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FIRST LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act to provide for the regulating of  
7 initial and subsequent financing of insurers,  
8 insurance holding corporations, stock corpo-  
9 rations to finance insurers and corporations  
10 to manage insurers, prescribing penalties."

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

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Section 1. SOLICITATION PERMIT. No person forming or pro-  
13 posing to form in this state an insurer, or insurance holding  
14 corporation, or stock corporation to finance an insurer or in-  
15 surance production therefore or corporation to manage an insurer,  
16 shall advertise, or solicit or receive any funds, agreement, stock  
17 subscription, or membership on account thereof until he has re-  
18 ceived from the Commissioner a solicitation permit. A person  
19 violating this section shall be subject to a fine of not more  
20 than \$10,000.00 or imprisonment for not more than ten years or  
21 by both such fine and imprisonment.

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Sec. 2. APPLICATION FOR SOLICITATION PERMIT. To apply for  
23 a solicitation permit the person shall:

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(1) file with the Commissioner a request therefor showing,

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(a) name, type, and purpose of insurer or corporation  
26 proposed to be formed;

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(b) names, addresses, and business records of each  
28 person associated or interested or to be associated

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or interested in the formation of the proposed insurer

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- 1 or corporation; and of each person who will be engaged  
2 in the solicitation therefor.
- 3 (c) full disclosure of the terms of all understandings  
4 and agreements existing or proposed among persons so  
5 associated relative to the proposed insurer, corporation,  
6 or the formation thereof;
- 7 (d) the plan according to which solicitations are  
8 to be made;
- 9 (e) such additional information as the Commissioners  
10 may reasonably require;
- 11 (2) file with the Commissioner,
- 12 (a) original and two copies of proposed articles of  
13 incorporation or agreement;
- 14 (b) original and duplicate of any proposed by-laws;
- 15 (c) copy of any security proposed to be issued and  
16 copy of application or subscription agreement therefor;
- 17 (d) copy of any insurance contract proposed to be  
18 offered and copy of application therefor;
- 19 (e) copy of any prospectus, advertising, or literature  
20 proposed to be used;
- 21 (f) copy of proposed form of any escrow agreement  
22 required;
- 23 (3) Deposit with the Commissioner appropriate fees and  
24 the bond required by this Act.

25 Sec. 3. APPLICATION EXAMINED. The Commissioner shall  
26 expeditiously examine the application for a solicitation permit  
27 and make any investigation relative thereto deemed necessary.  
28 If the Commissioner finds that:

- 29 (1) the application is complete, and

1 (2) the documents filed therewith are equitable in  
2 terms and proper in form, and

3 (3) the agreements made or proposed are equitable  
4 to present and future shareholders, subscribers, members or  
5 policyholders,

6 he shall give notice to the applicant that he will issue a  
7 solicitation permit, stating the terms to be contained therein.

8 If the Commissioner does not so find, or if he finds that  
9 any of the persons named in the application as being associated  
10 or to be associated in the formation of the insurer or corpora-  
11 tion, or as being engaged in the solicitation therefor, is un-  
12 trustworthy, or is a person not of good moral character or is  
13 a person not to be regarded as a proper person to undertake  
14 such activity or has been convicted of a felony, he shall give  
15 notice to the applicant that the permit will not be granted,  
16 stating the grounds therefor, and shall refund to the applicant  
17 all sums deposited except the application fee.

18 Sec. 4. EXPIRATION AND CONTENTS. Every solicitation per-  
19 mit issued by the Commissioner shall:

20 (1) expire two years from its date, unless earlier  
21 terminated by the Commissioner and shall so state.

22 (2) state the securities for which subscriptions are to  
23 be solicited, the number, classes, par value, and selling price  
24 thereof, or identify the insurance contract for which applica-  
25 tions and advanced premiums or deposits are to be solicited.

26 (3) limit the portion of funds received on account of  
27 stock on subscriptions, if any are proposed to be taken, which  
28 may be used for promotion and organization expenses to such  
29 amount as he deems adequate, but in no event to exceed 20% of

1 such funds as and when actually received;

2 (4) if for a mutual insurer, limit the portion of funds  
3 received on account of applications for insurance which may be  
4 used for promotion or organization expenses to a reasonable  
5 commission upon such funds, giving consideration to the kind of  
6 insurance and policies involved, and provide that no such com-  
7 mission shall be deemed to be earned nor be paid until the in-  
8 surer has received its certificate of authority and the policies  
9 applied for and upon which such commission is to be based, have  
10 actually been delivered and issued;

11 (5) contain the names of all persons filed with the  
12 application for a solicitation permit pursuant to § 2(1)(b)  
13 herein as solicitors. Anyone who advertises or solicits or  
14 receives any funds, agreement, stock subscription or membership  
15 on behalf of an insurer, or insurance holding corporation, or  
16 stock corporation to finance an insurer or insurance production  
17 therefor, or corporation to manage an insurer without his name  
18 appearing on the solicitation permit issued by the commission,  
19 shall be guilty of a felony, and shall be subject to a fine of  
20 not more than \$10,000 or imprisonment for not more than ten  
21 years, or both such fine and imprisonment;

22 (6) contain such other information required by this act  
23 or reasonable conditions relating to accounting and reports or  
24 otherwise as the Commissioner deems necessary.

25 Sec. 5. PERMITS USED AS INDUCEMENT. The granting of a  
26 solicitation permit is permissive only and shall not constitute  
27 an endorsement by the Commissioner of any person or thing related  
28 to the proposed insurer or corporation and the existence of the  
29 permit shall not be advertised or used as an inducement in any

1 solicitation. The substance of this section in bold face type  
2 not less than 10 point shall be printed at the top of each  
3 solicitation permit.

4 Sec. 6. MODIFICATION OR REVOCATION OF PERMIT.

5 (1) The Commissioner may, for cause, modify a solicitation  
6 permit, or may, after a hearing, revoke any solicitation permit  
7 for violation of any provision of this Act or of the terms of  
8 the permit, or of any proper order of the Commissioner, or for  
9 misrepresentation.

10 (2) The Commissioner shall revoke a solicitation permit  
11 if requested in writing by a majority of the incorporators and  
12 two-thirds of the subscribers to stock or applicants for insu-  
13 rance in the proposed insurer or corporation.

14 Sec. 7. BOND OR CASH DEPOSIT.

15 (1) The Commissioner shall not issue a solicitation permit  
16 to a person applying therefor unless the applicant files a  
17 corporate surety bond in the penalty of \$20,000.00 in favor of  
18 the state and for the use and benefit of the state and of sub-  
19 scribers and creditors of the proposed organization. Bonds  
20 shall be conditioned upon the payment of costs incurred by the  
21 state in event of any legal proceedings for liquidation or dis-  
22 solution of the proposed organization before completion of or-  
23 ganization or in event a certificate of authority is not granted;  
24 and upon a full accounting for funds received until the proposed  
25 insurer or corporation has been granted its certificate of  
26 authority, or has completed its organization as defined in the  
27 solicitation permit.

28 (2) In lieu of filing such bond, the person may deposit  
29 with the chief financial officer of the state through the

1 Commissioner \$20,000.00 in cash or in United States Government  
2 Bonds at par value, to be held in trust upon the same conditions  
3 as required for the bond.

4 (3) Any bond filed or deposited or the remaining portion  
5 thereof held under this section shall be released and discharged  
6 upon settlement or termination of all liabilities against it.

7 Sec. 8. ESCROW OF FUNDS. All funds received pursuant to  
8 a solicitation permit shall be deposited and held in escrow in  
9 a bank or trust company under an agreement approved by the Commis-  
10 sioner. No part of any such deposit shall be withdrawn, except:

11 (1) for the payment of promotion and organization expenses  
12 as authorized by the solicitation permit; or

13 (2) for the purpose of making a deposit with the Commis-  
14 sioner required for the issuance of a certificate of authority  
15 to an insurer; or

16 (3) for making of refunds as provided in § 12 herein.

17 When the Commissioner has issued a certificate of authority  
18 to an insurer any such funds remaining in escrow for its account  
19 shall be released to the insurer.

20 Sec. 9. LIABILITY OF ORGANIZERS - ORGANIZATION EXPENSE.

21 (1) The incorporators of any insurer or other corporation  
22 shall be jointly and severally liable for its debts or liabilities  
23 until it has secured a certificate of authority, if an insurer,  
24 or has completed its organization if a corporation other than an  
25 insurer.

26 (2) Any portion of funds received on account of stock or  
27 syndicate subscriptions which is allowed therefor under the  
28 solicitation permit, may be applied concurrently toward the pay-  
29 ment of promotion and organization expense theretofore incurred.

1           Sec. 10. STOCK ISSUANCE FORFEITURES. (1) No proposed  
2 stock insurer or corporation shall issue any share of stock or  
3 participation agreement except for payment in cash or in securi-  
4 ties eligible for investment of funds of insurers. No such  
5 shares or agreement shall be issued until all subscriptions  
6 received under the solicitation permit have been so fully paid,  
7 nor, if an insurer, until a certificate of authority has been  
8 issued to it.

9           (2) Every subscription contract to shares of a stock  
10 insurer or other corporation calling for payment in installments,  
11 together with all amounts paid thereon may be forfeited at the  
12 option of the corporation, upon failure to make good a delin-  
13 quency in any installment upon not less than 45 days notice in  
14 writing, and every such contract shall so provide.

15           Sec. 11. INSURANCE APPLICATIONS. All applications for  
16 insurance obtained in forming a mutual insurer shall provide  
17 that:

18           (1) issuance of the policy is contingent upon completion  
19 of organization of the insurer and issuance to it of a certifi-  
20 cate of authority; and

21           (2) the prepaid premium or deposit will be refunded in  
22 full to the applicant if the organization is not completed and  
23 certificate of authority issued prior to the solicitation per-  
24 mit's date of expiration; and

25           (3) the agreement for issuance is not effective until the  
26 policy has been issued under it.

27           Sec. 12. FAILURE TO COMPLETE OR QUALIFY. The Commissioner  
28 shall withdraw all funds held in escrow and refund to subscribers  
29 or applicants all sums paid in on stock subscriptions, less that

1 part of such sums paid in on subscriptions as has been allowed  
2 or used for promotion and organization expenses, and all sums  
3 paid in on insurance applications, and shall dissolve the pro-  
4 posed insurer or corporation if:

5 (1) the proposed insurer or corporation fails to complete  
6 its organization and obtain full payment for subscriptions and  
7 applications, and, if an insurer, fails to secure its certificate  
8 of authority, all before the expiration of the solicitation permit;  
9 or

10 (2) the commissioner revokes the solicitation permit.

11 Sec. 13. SUBSEQUENT FINANCING.

12 (1) No domestic insurer, or insurance holding corporation,  
13 or stock corporation for financing operations of a mutual insurer  
14 after it has received a certificate of authority, if an insurer,  
15 or it has completed its initial organization and financing if a  
16 corporation other than an insurer, shall solicit or receive funds  
17 in exchange for any new issue of its corporate securities, other  
18 than through a stock dividend, until it has applied to the Com-  
19 missioner for, and has been granted, a solicitation permit.

20 (2) The Commissioner shall issue such a permit unless he  
21 finds that:

22 (a) the funds proposed to be secured are excessive  
23 in amount for the purpose intended, or

24 (b) the proposed securities or the manner of  
25 their distribution are inequitable, or

26 (c) the issuance of the securities would jeopardize  
27 the interest of policy holders or the holders of  
28 other securities of the insurer or corporation.

29 (3) Any such solicitation permit granted by the Commissioner

1 shall be for such duration, and shall contain such terms and be  
2 issued upon such conditions as the Commissioner may reasonably  
3 specify or require.

4       Sec. 14. FALSE EXHIBITS. Every person who, with intent to  
5 deceive, knowingly exhibits any false account, or document, or  
6 advertisement, relative to the affairs of any insurer, or of any  
7 corporation, formed or proposed to be formed, shall be guilty  
8 of a felony and shall be subject to a fine of not more than ten  
9 thousand dollars or imprisonment for not more than ten years,  
10 or to both such fine and imprisonment.

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