

Introduced: Resources,
Commerce and Finance

1 IN THE HOUSE

BY DEVEAU AND PERATROVICH

2 HOUSE BILL NO. 114

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state sponsored fishing vessel
7 insurance."

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

9 * Section 1. AS 21 is amended by adding a new chapter to read:

10 CHAPTER 7. FISHING VESSEL INSURANCE.

11 Sec. 21.07.010. AUTHORIZATION. The director of the division of
12 insurance, in the Department of Commerce, shall institute and admin-
13 ister a fishing vessel insurance plan.

14 Sec. 21.07.020. REGULATIONS. The director shall promulgate
15 regulations, not inconsistent with this chapter, which are necessary
16 for the administration of the fishing vessel insurance plan.

17 Sec. 21.07.030. APPLICATION. A fisherman may make application
18 to the director, on a form prescribed by the director, for insurance
19 coverage under the provisions of this chapter.

20 Sec. 21.07.040. APPRAISAL. (a) Upon receipt of an application,
21 the director shall have the vessel of the applicant inspected and
22 appraised; and upon receipt of the appraiser's report, the director
23 may approve the vessel if it is in a condition suitable for insurance.

24 (b) The director may charge a reasonable fee for the appraisal
25 of the vessel.

26 Sec. 21.07.050. REQUIREMENTS FOR INSURABILITY. The director
27 may issue a policy of insurance to a fisherman on an insurable vessel
28 if he is satisfied that:

29 (1) the home port of the fisherman is in the state and he

1 is a resident of the state;

2 (2) the vessel is owned by the fisherman to an extent of not
3 less than one-third or acquired by him under some form of contractual
4 obligation approved by the director;

5 (3) the vessel is operated by the fisherman in commercial
6 fisheries;

7 (4) any existing insurance on the vessel for total or
8 partial loss has been fully disclosed by the fisherman;

9 (5) the fisherman has paid the premium in advance on the
10 insurable vessel, described in his application, that is to be listed
11 in his policy.

12 Sec. 21.07.060. MAXIMUM COVERAGE. The maximum insurance cover-
13 age available under this chapter is \$50,000 per vessel. Subject to
14 sec. 50(4) of this chapter, insurance coverage may be obtained from a
15 private insurer for the amount the appraised value of the vessel
16 exceeds \$50,000.

17 Sec. 21.07.070. PREMIUMS. Premiums may not be less than two per
18 cent nor more than five per cent of the appraised value of the vessel
19 a year.

20 Sec. 21.07.080. APPRAISED VALUE. The appraised value of a
21 vessel shall remain unchanged for the period of coverage subject to
22 sec. 140 of this chapter and shall be based on the following:

23 (1) the condition of the vessel;

24 (2) the replacement cost of the vessel; adjusted for age
25 and other factors;

26 (3) the area in which the vessel is used; and

27 (4) the loss experience in the area in which the vessel
28 is used.

29 Sec. 21.07.090. PERIOD OF COVERAGE. (a) The period of insurance

1 coverage of a fishing vessel under this chapter is from noon of the
2 date of eligibility shown in the policy issued by the director to the
3 fisherman

4 (1) to the same hour and date 12 months later; or

5 (2) if, in the opinion of the director, the administration
6 of this chapter would be facilitated, to the same hour of a date not
7 less than six months nor more than 18 months later than that date of
8 eligibility.

9 (b) A fisherman may not during a period of eligibility, with-
10 draw his vessel from the coverage of this chapter.

11 Sec. 21.07.100. LIMITS OF ELIGIBILITY. (a) When the director
12 declares that a vessel should not, for a reason in this chapter or in
13 a regulation, remain covered, and a notice in writing of that declara-
14 tion has been delivered to the fisherman, his vessel shall cease to
15 be eligible for coverage from noon of the day following the date of
16 delivery of the notice, and the director shall return the premium to
17 the fisherman calculated as of the time and date his eligibility for
18 coverage ceased.

19 (b) A vessel ceases to be eligible for coverage if the vessel
20 or the hull of the vessel is sold or transferred to other ownership,
21 or if the vessel is requisitioned or insured against total or partial
22 loss for an amount exceeding that prescribed in sec. 60 of this
23 chapter, in which instances the director may make a return of the
24 premium to the fisherman calculated as of noon of the date of sale,
25 transfer of ownership, requisitioning or insuring.

26 Sec. 21.07.110. CLAIMS. (a) When a fisherman submits a claim
27 for indemnity as the result of a loss, he shall supply any receipts,
28 vouchers, statements, declarations or other information concerning the
29 loss that the director may require.

1 (b) In calculating the amount payable for a partial loss, no cost
2 of towage or salvage may be included, nor may cost of repair or replace-
3 ment that, in the opinion of the director, is not directly connected
4 with the repair of the partial loss.

5 (c) When a fisherman has himself repaired a damaged vessel, the
6 director may include as part of the cost of repairing the damage an
7 amount to compensate the fisherman for his labor at the local rates of
8 pay the director may determine.

9 (d) The director may make a progress payment, to the extent of
10 75 per cent of the estimated amount payable to that fisherman, to

11 (1) a fisherman whose vessel is insured under this chapter
12 and who is repairing his damaged vessel;

13 (2) a shipyard where the vessel of a fisherman, which is
14 insured under this chapter, is being repaired, or

15 (3) a supplier of materials for repairs to a vessel insured
16 under this chapter.

17 (e) When an assignment under sec. 170 of this chapter is in
18 effect under the policy covering the vessel, the consent in writing of
19 the assignee to the making of the progress payment shall be received
20 by the director before the payment is made.

21 Sec. 21.07.120. DISAPPEARANCE OF VESSEL. (a) When a vessel
22 disappears and no evidence is obtainable to explain the circumstances
23 of its disappearance, the director may, one month after the disappear-
24 ance has been reported, declare the vessel a total loss and pay the
25 amount payable on that vessel.

26 (b) When a claim has been paid on a vessel that disappeared
27 and that vessel is subsequently found, the vessel, unless it is a
28 total loss, becomes the property of the state and remains the property
29 of the state until the appropriate amount of the indemnity is repaid to

1 the state.

2 (c) When the appropriate amount of the claim referred to in (b)
3 of this section is not repaid to the state within three months after
4 the vessel was found, the director may order the sale of the vessel.

5 Sec. 21.07.130. PAYMENT OF CLAIMS. The director may pay a
6 claim for loss of or damage to an insured vessel owned by a fisherman
7 if the director is satisfied that the loss of or damage to the vessel:

8 (1) occurred within the period during which the vessel was
9 covered by this chapter;

10 (2) has been established in accordance with sec. 110;

11 (3) has been caused by collision, foundering, storm, strand-
12 ing, tidal wave, fire, thieves or any other recognized peril; and

13 (4) has not been the result of ordinary wear and tear,
14 wilful damage or other wrongful act or recklessness of the fisherman
15 or his agent, use of the vessel for an illegal purpose, hostilities
16 or warlike operations.

17 Sec. 21.07.140. REAPPRAISAL. (a) The director may order a
18 reappraisal of an insured vessel at any time during the period of
19 eligibility of the vessel and shall order a reappraisal when the
20 fisherman notifies him of a significant change in the value of an
21 insured vessel.

22 (b) When, as the result of a reappraisal of a vessel made under
23 (a) of this section, it is determined that there has been a significant
24 change in the value of the vessel of the fisherman, the director may
25 issue an endorsement amending the policy of the fisherman accordingly.

26 Sec. 21.07.150. ADDITIONAL PERIODS OF ELIGIBILITY. (a) A
27 fisherman, on whose vessel the period of eligibility is about to
28 expire may, upon payment of the premium prescribed by the director,
29 remain insured for an additional period of eligibility commencing

1 immediately after the expiration of the last preceding period of
2 eligibility and terminating

3 (1) at the same hour of the same date 12 months later; or

4 (2) when, in the opinion of the director, the administration
5 of this chapter would be facilitated, at the same hour of a date not
6 less than six months nor more than 18 months after the commencement
7 of the new period of eligibility.

8 (b) When the premium for an additional period of eligibility is
9 not paid before the expiration of the last preceding period of eligi-
10 bility but is paid within 30 days after the expiration of that pre-
11 ceding period, the coverage shall be considered to have been in effect
12 from the hour and date of expiration of that preceding period for an
13 additional period of eligibility determined in accordance with (a) of
14 this section.

15 Sec. 21.07.160. INSPECTION OF INSURED VESSELS. (a) The director
16 may at any time have a vessel insured under this chapter inspected,
17 and if in the opinion of the director, the vessel is unseaworthy or is
18 not being cared for by the fisherman in a manner that would be reason-
19 able to expect of a prudent uninsured owner, the director may declare
20 the vessel ineligible for coverage until the vessel is made seaworthy
21 or is being properly cared for.

22 (b) A vessel shall, for the purposes of this chapter, be con-
23 sidered ineligible for coverage from the time notice in writing of its
24 ineligibility is delivered to the fisherman until the time the notice
25 is revoked in writing by the director.

26 (c) When an officer authorized by the director to deliver a
27 notice referred to in (b) of this section is unable to locate a
28 fisherman, he may deliver the notice to the last known mailing address
29 of the fisherman and the notice shall be considered to have been

1 delivered to the fisherman.

2 Sec. 21.07.170. ASSIGNMENT OF CLAIMS. (a) The director may,
3 at the request in writing of a fisherman, approve the assignment of a
4 claim to a person who has an equity or financial interest in the
5 fisherman's insured vessel.

6 (b) When the director has approved an assignment under (a) of
7 this section, the assignment shall be effective with respect to any
8 claim payable under the policy covering the fisherman's vessel and any
9 renewal of that policy, from the day immediately following the day on
10 which the assignment is received by the director to the day immediately
11 following the day on which the director receives the consent in
12 writing of the assignee to the revocation of the assignment.

13 (c) When more than one fisherman owns a vessel on which an
14 application is made, the application may be made by all owners jointly
15 or by one or more fishermen only but, subject to (a) and (b) of this
16 section, the director is not required to make payment of a claim or to
17 give notice except to the fishermen whose names appear on the appli-
18 cation.

19 Sec. 21.07.180. CLAIMS AGAINST A THIRD PARTY. (a) When total
20 or partial loss occurs to an insured vessel under circumstances where
21 the fisherman who owns the vessel may claim damages against a third
22 person, the fisherman may elect either to exercise his legal rights
23 against the third person or to claim the indemnity under this chapter;
24 but, if he elects to claim and receives indemnity, the director shall
25 be subrogated to all the rights and remedies of the fisherman to the
26 extent of the amount of indemnity received by the fisherman.

27 (b) If a fisherman referred to in (a) of this section elects to
28 exercise his legal rights against the third person and as a result
29 recovers from him an amount less than the indemnity to which he would

1 have been entitled under this chapter, the fisherman may make a claim
2 for and be paid by the director the difference between the indemnity
3 and the amount recovered; and if no amount is recovered by the fisher-
4 man he may make a claim for and be paid by the director the total
5 amount of the indemnity.

6 Sec. 21.07.190. DEFINITIONS. In this chapter, unless the
7 context otherwise requires

8 (1) "director" means the director of the division of insur-
9 ance, Department of Commerce;

10 (2) "fisherman" means

11 (A) a person who carries on fishing operations
12 involving the use of a vessel, or a member of his immediate
13 family, or

14 (B) a private corporation

15 (i) of which the majority of shareholders are
16 fishermen,

17 (ii) the fishermen shareholders of which own a
18 majority of the shares of the corporation, and

19 (iii) the earnings of which are derived in part
20 from fishing operations by means of a vessel owned by the
21 corporation;

22 (3) "partial loss" means a loss resulting from a single
23 incident in which an insured vessel of a fisherman has been damaged
24 to the extent that the cost of repair or replacement of the damaged
25 parts is less than the appraised value of the vessel;

26 (4) "total loss" means a loss resulting from a single
27 incident in which an insured vessel of a fisherman has been destroyed
28 or has disappeared or has been damaged to the extent that the cost of
29 repair or replacement of the damaged parts would exceed the appraised

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value of the vessel;

(5) "vessel" means a mechanically propelled fishing vessel and includes the means of propulsion, the hull and equipment customarily used in the vessel, one lifeboat and its equipment and special equipment affixed to the hull, but does not include nonpowered fishing dories and seine skiffs and all fishing appliances and accessories part or all of which leave the vessel for a fishing operation.