

Introduced: 1/11/78
Referred: Commerce and
Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (for the Interim
Committee on Insurance)

1 IN THE HOUSE

2 CS HOUSE BILL NO. 615 (JUDICIARY)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska essential property in-
7 surance inspection and placement program."

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 61. ALASKA ESSENTIAL PROPERTY INSURANCE

11 INSPECTION AND PLACEMENT PROGRAM.

12 Sec. 21.61.010. PURPOSES OF PROGRAM. The purposes of the Alaska
13 essential property insurance inspection and placement program are to

14 (1) assure stability in the property insurance market of the
15 state;

16 (2) encourage maximum use, in obtaining essential property
17 insurance, of the available, normal insurance market provided by autho-
18 rized insurers;

19 (3) make essential property insurance available where it can-
20 not be obtained through the normal insurance market, subject to the con-
21 ditions imposed by the program;

22 (4) encourage the improvement of the condition of properties
23 located in the urban areas of the state and to further orderly community
24 development generally;

25 (5) establish a property insurance pool, an industry place-
26 ment facility, and a Joint Reinsurance Association for the equitable
27 distribution and placement of risks among insurers in the manner and
28 subject to the conditions imposed under the program.

29 Sec. 21.61.020. PARTICIPATION. Participation in this program shall

CS HB 615 (JUDICIARY)

1 be mandatory for all insurers authorized to engage in the property
2 insurance business in this state and who have "premiums written", as
3 defined in this chapter.

4 Sec. 21.61.030. PROPERTY INSURANCE POOL: INSPECTIONS AND REPORTS.

5 (a) Any person having an insurable interest in real or tangible per-
6 sonal property at a fixed location in a rural area shall be entitled,
7 upon application to the facility, to an inspection of the property by
8 the division at no cost to the applicant. The inspection may be re-
9 quested by the property owner or his representative, the insurer, or the
10 insurance producer and need not be in writing. Requests for inspections
11 shall be transcribed on a form approved by the facility. A deposit pre-
12 mium is not required as a precondition to inspection.

13 (b) The owner of the building need not be present for a tenant to
14 obtain an inspection, but the division must be provided full access to
15 the property for which inspection is sought.

16 (c) An inspection report shall be made for each property inspected.
17 The report shall cover pertinent structural and occupancy features as
18 well as the general condition of the building and surrounding struc-
19 tures. A representative photograph of the property may be taken during
20 the inspection.

21 (d) During the inspection the inspector shall point out features
22 of structure and occupancy to the applicant or his representative, if
23 present, and shall indicate those features which may result in condition
24 charges if the risk is accepted. The inspector has no authority to
25 advise whether any insurer will provide the coverage.

26 (e) After the inspection a copy of the completed inspection re-
27 port, and any photograph, indicating the pertinent features of the
28 building, construction, maintenance, occupancy, and surrounding property
29 shall be sent within five business days of the inspection to the facility

1 for distribution to a service insurer. The person requesting the inspec-
2 tion report may designate the service insurer to which the inspection is
3 to be referred.

4 (f) Included with the report shall be a rate make-up statement,
5 including any condition charges or surcharges imposed by inspection or
6 under the program, or under any substandard rating plan approved by the
7 director. A copy of the inspection report shall be made available to
8 the applicant or his agent upon request.

9 Sec. 21.61.035. PROPERTY INSURANCE POOL: DISTRIBUTION AND PLACE-
10 MENT. (a) The facility may require as a precondition for referral of
11 an inspection report to a service insurer that the applicant make a
12 showing that he is unable, after reasonably diligent efforts, to obtain
13 insurance in the normal market.

14 (b) Thereafter, the facility, upon receipt of an application for
15 coverage and the corresponding inspection report from the division,
16 shall assign the application to the service insurer designated by the
17 applicant or by his agent; or if no service insurer is so designated, it
18 shall assign the application to a service insurer, keeping the assign-
19 ments evenly distributed, based on the volume of property insurance
20 writings in the state of the various service insurers.

21 (c) Assessments upon each insurer participating in this program
22 shall be levied by the facility on the same percentage allocation basis
23 as that insurer's premiums written bears to the total of all premiums
24 written by all insurers participating in the program.

25 (1) The maximum limit of liability which may be placed
26 through this program on any one property at one location is \$1,500,000.
27 The facility shall undertake the responsibility of seeking to place that
28 portion of a risk which exceeds \$1,500,000.

29 (2) The term "at one location" means real and personal

1 property consisting of and contained in a single building, or consisting
2 of and contained in contiguous buildings under one ownership.

3 Sec. 21.61.040. PROCEDURE AFTER INSPECTION AND SUBMISSION. (a)
4 Any service insurer to which a risk is referred by the facility shall,
5 within three business days after receipt of the inspection report and
6 application, complete an action report and return the report to the
7 facility advising that

8 (1) the risk is acceptable;

9 (2) the risk will be acceptable if the improvements noted in
10 the action report are made by the applicant and confirmed by reinspec-
11 tion; or

12 (3) the risk is not acceptable for the reasons stated in the
13 action report.

14 (b) If the risk is accepted by the designated service insurer, and
15 upon receipt of premium, the policy or binder shall be delivered within
16 two business days. No producer has authority to bind the facility or
17 any service insurer for any risk eligible for this program until accep-
18 tance of the risk and payment of premium.

19 (c) In the event a risk is declined because it fails to meet
20 reasonable underwriting standards, the facility shall so notify the ap-
21 plicant and the director. Reasonable underwriting standards include,
22 but are not limited to, (1) physical condition of the property, such
23 as its construction, heating, wiring, evidence of previous fires or
24 general deterioration; (2) its present use or housekeeping, such as
25 vacancy, overcrowding, storage of rubbish or flammable materials; (3)
26 other specific characteristics of ownership, condition, occupancy, or
27 maintenance which are violative of public policy and result in unreason-
28 able exposures to loss. Neighborhood or area location or any environmen-
29 tal hazard beyond the control of the property owner are not considered

1 to be an acceptable criterion for declining a risk.

2 (d) In the event the risk is conditionally declined because the
3 property does not meet reasonable underwriting standards, but can be
4 improved to meet those standards, the facility shall promptly advise the
5 applicant and the director what improvements noted in the action report
6 should be made to the property. Upon completion of the improvements by
7 the applicant or property owner, the facility, when so notified, shall
8 have the property promptly reinspected and furnish the new inspection
9 report to the previously designated service insurer.

10 (e) If the inspection of the property reveals that there are one
11 or more substandard conditions, surcharges may be imposed in conformity
12 with the substandard rating plan approved by the director. In this
13 event, the facility shall advise the applicant of what improvements, if
14 any, he may make to bring his property to insurable condition at un-
15 surcharged rates.

16 (f) Any insurer, which is a member of a group of insurers under
17 the same management or ownership, to which a referral is made under the
18 program, may apply in behalf of the group for a combined distribution and
19 placement quota under the program. The group shall have the option of
20 designating the insurer within the group to which the risk shall be
21 referred.

22 Sec. 21.61.050. JOINT REINSURANCE ASSOCIATION. (a) A Joint Rein-
23 surance Association is created consisting of all insurers.

24 (b) The association shall be authorized to assume reinsurance on
25 behalf of insurers and cede reinsurance on behalf of insurers on eligible
26 risks written by insurers through the property insurance pool. The
27 reinsurance assumed by the association shall be 100 per cent of each
28 risk written under this program under \$1,500,000.

29 (c) Each insurer shall participate in the total writings, expenses,

1 profits, and losses of the association in proportion to its premiums
2 written.

3 (d) In the event any reinsuring member fails, by reason of insol-
4 vency, to pay its proportion of any expense or of any loss as an assuming
5 reinsurer incurred by the facility under the program, the unpaid loss or
6 expense shall be paid by the remaining members, each contributing in the
7 manner provided for the distribution of expenses and losses under the
8 program. The facility shall be subrogated to the rights of the remaining
9 members in any liquidation proceeding and has full authority on their
10 behalf to exercise those rights in any action or proceeding.

11 Sec. 21.61.060. STANDARD POLICY COVERAGE: CODING. All policies
12 issued shall be for essential property insurance on standard policy
13 forms, shall be separately coded, and shall be issued for a term of one
14 year, at rates approved by the director. Individual company deviation
15 filings do not apply to risks written under this program.

16 Sec. 21.61.070. CANCELLATION UNDER THIS PROGRAM. (a) No insurer
17 may cancel a policy or binder issued under this program except for

18 (1) cause which would have been grounds for non-acceptance
19 of the risk under the program had the cause been known to the insurer
20 at the time of acceptance;

21 (2) nonpayment of premium; or

22 (3) with the approval of the committee.

23 (b) Notice of cancellation, together with a statement of the reason
24 for the cancellation, shall be sent to the insured with a copy sent to
25 the facility.

26 (c) A cancellation notice to the insured shall be accompanied by
27 a statement that the insured has a right of appeal as provided in sec. 80
28 of this chapter.

29 Sec. 21.61.080. RIGHT OF APPEAL. (a) An applicant or insurer

1 shall have a right of appeal to the committee, including the right to
2 appear in person before the committee, if requested by the party seeking
3 appeal.

4 (b) A decision of the committee may be appealed to the director.

5 (c) Each denial of insurance under this program shall be accom-
6 panied by a statement setting out the provisions of this section.

7 (d) Notification of appeal may be made to the committee through the
8 manager of the facility or any member of the committee.

9 (e) All appeals to the committee or to the director shall be in
10 writing and must indicate in what respect the applicant feels aggrieved.

11 (f) Decisions of the committee on appeals to it shall be in writing
12 and shall be rendered within at least 15 business days after notification
13 of appeal is received, unless delayed by mutual consent. The majority
14 of committee members must concur in all decisions adverse to the party
15 seeking appeal.

16 (g) Appeals to the director under this program shall, in all other
17 respects not set out in this chapter, be handled in accordance with
18 AS 44.62.330 - 44.62.630.

19 Sec. 21.61.090. COMMISSION. Commission under this program shall
20 be 10 per cent on the policy premium and shall be paid to the licensed
21 producer designated by the applicant.

22 Sec. 21.61.100. ADMINISTRATION. (a) This program shall be ad-
23 ministered by a Governing Committee of the facility, subject to the
24 supervision of the director, and operated by a manager appointed by the
25 committee.

26 (b) The committee shall consist of five insurers, one of which
27 shall be selected by the director from each of the following: (1)
28 American Insurance Association; (2) American Mutual Insurance Alliance;
29 (3) National Association of Independent Insurers; (4) all other stock

1 insurers; (5) all other non-stock insurers. Not more than one insurer
2 in a group under the same management or ownership may serve on the
3 committee at the same time. One of the five insurers on the committee
4 shall be a domestic insurer.

5 (c) The committee may issue operating procedures and other direc-
6 tives to carry out the purposes of the program, and directives of the
7 director.

8 (d) Each person serving on the committee or a subcommittee of it,
9 each member of the facility, and each officer and employee of the faci-
10 lity shall be indemnified by the facility against all costs and expenses
11 actually and necessarily incurred by him or it in connection with the
12 defense of any action, suit, or proceeding in which he or it is made a
13 party by reason of his or its being or having been a member of the
14 committee, or a member or officer or employee of the facility except in
15 relation to matters as to which he or it has been judged in the action,
16 suit, or proceeding to be liable by reason of wilful misconduct in the
17 performance of his or its duties as a member of the committee, or a
18 member or officer or employee of the facility. This indemnification
19 does not apply to any loss, cost, or expense on insurance policy claims
20 under the program. Indemnification under this subsection is not ex-
21 clusive of other rights to which the member or officer may be entitled
22 as a matter of law.

23 Sec. 21.61.110. ANNUAL AND SPECIAL MEETINGS. (a) There shall be
24 an annual meeting of the insurers on a date fixed by the committee.
25 Representatives on the committee shall serve for a period of one year or
26 until successors are elected or designated.

27 (b) A special meeting may be called at a time and place designated
28 by the committee or upon the written request to the committee of any 10
29 insurers, not more than one of which may be a group under the same

1 management or ownership.

2 (c) Twenty days notice of the annual or special meeting shall be
3 given in writing by the committee to the insurers. A majority of the
4 insurers constitutes a quorum. Voting by proxy is permitted. Notice of
5 any meeting shall be accompanied by an agenda for the meeting.

6 (d) Any matter, including amendment of this program, may be pro-
7 posed and voted upon by mail if that procedure is unanimously authorized
8 by the members of the committee present and voting at any meeting of the
9 committee. If so approved by the committee, notice of a proposal shall
10 be mailed to the insurers not less than 20 days before the final date
11 fixed by the committee for voting on the proposal.

12 (e) At any regular or special meeting at which the vote of the
13 insurers is or may be required on a proposal, including amendment to the
14 program, or any vote of the insurers which may be taken by mail on a
15 proposal, the votes shall be cast and counted on a weighted basis in
16 accordance with each insurer's premiums written. A proposal becomes
17 effective when approved by at least two-thirds of the votes cast on the
18 weighted basis, except amendments to the program which will require
19 administrative action by the director.

20 Sec. 21.61.115. DUTIES OF THE COMMITTEE. (a) The committee shall
21 meet as often as may be required to perform the general duties of the
22 administration of the program or on the call of the director. Three
23 insurers of the committee constitute a quorum.

24 (b) The committee is empowered to appoint a manager, who shall
25 serve at the pleasure of the committee, to budget expenses, levy assess-
26 ments, disburse funds and perform all other duties provided in this
27 chapter or necessary or incidental to the proper administration of the
28 program. The adoption of or substantive changes in pension plans or
29 employee benefit programs is subject to approval of the insurers.

1 Assessments upon each insurer shall be levied on the basis of premiums
2 written by each insurer.

3 (c) Annually the manager shall prepare an operating budget which
4 shall be subject to approval of the committee. The budget shall be
5 furnished to the insurers after approval. Any contemplated expenditure
6 in excess of or not included in the annual budget shall require prior
7 approval by the committee.

8 (d) The committee shall furnish to all insurers and to the direc-
9 tor a written report of operations annually in such form and detail as
10 the committee may determine.

11 Sec. 21.61.120. COOPERATION OF PRODUCERS. All licensed insurance
12 agents and brokers shall provide full cooperation in carrying out the
13 aims and the operation of the property insurance pool.

14 Sec. 21.61.130. PUBLIC EDUCATION. Every insurer shall undertake a
15 continuing public education program in cooperation with producers and
16 others, to assure that the essential property insurance inspection and
17 placement program receives adequate public attention. Every insurer
18 shall give any policyholder eligible for coverage under this program 15
19 days notice of cancellation or refusal to renew (except in the case of
20 nonpayment of premium or evidence of incendiarism), and shall explain
21 the procedure for making application under this program in or accom-
22 panying the notice.

23 Sec. 21.61.140. STATISTICS, RECORDS AND REPORTS. (a) The facili-
24 ty shall maintain separate statistics on business written in accordance
25 with the program, and shall make the following quarterly report to the
26 director, and such additional reports as may be required by him. The
27 report shall include:

- 28 (1) the number of requests for inspections;
29 (2) the number of risks inspected;

1 (3) the number of risks accepted, total and average premiums
2 charged, high and low premiums;

3 (4) the number of risks declined; and

4 (5) the number of reinspections made on conditionally de-
5 clined risks.

6 (b) In addition to statistics, the facility shall maintain complete
7 and separate records of all business transactions, including copies of
8 all policies and endorsements issued in accordance with this program.

9 (c) Regular reports of the facility's operations shall be sub-
10 mitted to all members by the committee. The reports shall include, but
11 not be limited to, premiums written and earned, losses, including loss
12 adjustment expense, paid and incurred, all other expenses incurred, and
13 outstanding liabilities.

14 Sec. 21.61.150. DEFINITIONS. In this chapter, unless the context
15 requires otherwise,

16 (1) "committee" means the Governing Committee;

17 (2) "director" means the director of insurance;

18 (3) "division" means the division of insurance of the Depart-
19 ment of Commerce and Economic Development;

20 (4) "essential property insurance" means the coverage against
21 direct loss to real and tangible personal property at a fixed location
22 that is provided in the Standard Fire Policy and Extended Coverage
23 Endorsement, and shall include also the perils of vandalism and malicious
24 mischief and such additional lines of property insurance as may be
25 designated by the director; "essential property insurance" specifically
26 includes insurance against direct loss to property which is being con-
27 structed or rehabilitated (builder's risk coverage); it does not include
28 automobile insurance or insurance on farm or manufacturing risks;

29 (5) "industry placement facility" and "facility" means the

1 organization formed by insurers to assist applicants in rural areas in
2 securing essential property insurance and to administer the property in-
3 surance pool and the Joint Reinsurance Association;

4 (6) "insurer" means any insurance company or other organiza-
5 tion licensed to write and engage in writing property insurance, in-
6 cluding the property insurance components of multi-peril policies, on a
7 direct basis, in this state;

8 (7) "premiums written" means gross direct premiums (excluding
9 that portion of premiums on risks ceded to the Joint Reinsurance Associa-
10 tion) charged during the second preceding calendar year with respect to
11 property in the state on all policies of property insurance and property
12 insurance components of all multi-peril policies, as defined and com-
13 puted by the facility, less return premiums, dividends paid or credited
14 to policyholders, or the unused or unabsorbed portions of premium de-
15 posits;

16 (8) "rural area" includes all areas of the state except the

17 (A) City and Borough of Juneau,

18 (B) Fairbanks North Star Borough,

19 (C) Municipality of Anchorage;

20 (9) "service insurer" means any company designated by the
21 facility and approved by the director.

22 Sec. 21.61.160. SHORT TITLE. This chapter may be cited as the
23 Alaska Essential Property Insurance Inspection and Placement Program
24 Act.
25
26
27
28
29