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Referred: Labor & Commerce

1 IN THE SENATE

BY KELLY

2 SENATE BILL NO. 798

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to title insurance rating organiza-
7 tions; and providing for an effective date."

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

9 * Section 1. AS 21.66.370(a) is amended to read:

10 (a) A title insurance company shall file with the director its
11 schedules of rates, manuals of classifications, rules and plans relating
12 to schedules of rates or manuals of classification, and every modifica-
13 tion of the schedules or manuals which it proposes to use in this state.
14 A filing under this section shall contain the effective dates of the
15 documents filed, and indicate the character and extent of the coverage
16 contemplated. A title insurance company may satisfy its obligations
17 to make these filings by becoming a member of, or a subscriber to, a
18 licensed title insurance rating organization that makes such filings,
19 and by authorizing the commissioner to accept the filings on its behalf.

20 * Sec. 2. AS 21.66.370(c) is amended to read:

21 (c) Subject to the provisions of (e) of this section, each filing
22 shall be on file for a period of 30 days before it becomes effective.
23 The director may, upon written notice given within the 30-day period to
24 the person making the filing, extend the waiting period for an additional
25 period, not to exceed 30 days, in order to complete the review of the
26 filing. Additional extensions of the waiting period may also be made
27 with the consent of the title insurance company or rating organization.
28 Upon written application by the title insurance company or rating organ-
29 ization, the director, after review of the application, may authorize a

1 filing or any part of it to become effective upon the expiration of the
2 waiting period or its extension.

3 * Sec. 3. AS 21.66.380(a) is amended to read:

4 (a) A rate filing shall be accompanied by a statement of the title
5 insurance company or title insurance rating organization making the
6 filing, setting out the basis on which the rate was determined, with the
7 rates computed. A filing of rates may be justified by the following:

8 (1) the experience or judgment of the title insurance company
9 or title insurance rating organization making the filing; [,]

10 (2) its interpretation of any statistical data relied upon;
11 [,]

12 (3) the experience of other title insurance companies or
13 title insurance rating organizations making the filings; [,] or

14 (4) any other factors which the title insurance company
15 or title insurance rating organization considers relevant.

16 * Sec. 4. AS 21.66.390 is amended to read:

17 Sec. 21.66.390. MAKING OF RATES. (a) A title insurance company
18 that makes its own rates and each title insurance rating organization
19 shall make rates that are not excessive or inadequate and which do not
20 unfairly discriminate between risks in this state which involve essen-
21 tially the same exposure to loss and expense elements, and which give
22 due consideration to the following matters:

23 (1) the desirability for stability of rate structures;

24 (2) the necessity of assuring the financial solvency of title
25 insurance companies in period of economic depression by encouraging
26 growth in assets of title insurance companies in periods of high business
27 activity; and

28 (3) the necessity for assuring a reasonable margin of under-
29 writing and operating profit.

1 (b) A title insurance company that makes its own rates and each
2 title insurance rating organization shall adopt basic classifications of
3 policies or contracts of title insurance which shall be used as the
4 basis for rate-making.

5 * Sec. 5. AS 21.66.400(a) is amended to read:

6 (a) Upon the review at any time by the director of a filing, he
7 shall, before issuing an order of disapproval, hold a hearing upon not
8 less than 10 days written notice, specifying in reasonable detail the
9 matters to be considered at the hearing. Notice of the hearing shall be
10 given to each title insurance company or title insurance rating organi-
11 zation which made a filing, and if, after the hearing, the director
12 finds that the filing or a part of the filing does not meet the require-
13 ments of this chapter, he shall issue an order specifying how it is
14 deficient, and when, within a reasonable period thereafter, the filing
15 or a part of it is considered no longer effective, if the filing or a
16 part of it has become effective under the provisions of AS 21.66.370. A
17 title insurance company or title insurance rating organization has the
18 right at any time to withdraw a filing or a part of a filing. Copies of
19 the order issued under this section shall be sent to every title insur-
20 ance company and title insurance rating organization affected. The
21 order does not affect a contract or policy made or issued before the
22 expiration of the period set out in the order.

23 * Sec. 6. AS 21.66.400(b) is amended to read:

24 (b) A person or organization aggrieved with respect to a filing
25 which is in effect [,] may make written application to the director for
26 a hearing on the filing. The title insurance company or title insur-
27 ance rating organization that made the filing may not proceed under this
28 subsection. The application shall specify in reasonable detail the
29 grounds to be relied upon by the applicant. If the director finds that

1 the application is made in good faith, and that the applicant would be
2 aggrieved if his grounds are established, and that his grounds otherwise
3 justify holding a hearing, he shall, within 30 days after receipt of the
4 application, hold a hearing upon not less than 10 days written notice to
5 the applicant and to each title insurance company or title insurance
6 rating organization which made such a filing. If, after the hearing,
7 the director finds that the filing or a part of it does not meet the
8 requirements of this chapter, he shall issue an order specifying how the
9 filing or a part of it fails to meet the requirements of this chapter,
10 stating when, within a reasonable period after the order is issued, the
11 filing or a part of it is considered no longer effective. Copies of the
12 order shall be sent to the applicant and to every such title insurance
13 company or title insurance rating organization. The order does not
14 affect a contract or policy made or issued before the expiration of the
15 period set out in the order.

16 * Sec. 7. AS 21.66 is amended by adding new sections to read:

17 Sec. 21.66.401. TITLE INSURANCE RATING ORGANIZATIONS. (a) a
18 person located in or out of the state may apply to the director for
19 licensing as a title insurance rating organization and shall file as
20 part of the application

21 (1) a copy of its constitution, its articles of agreement or
22 association, or its certificate of incorporation and a copy of its
23 bylaws and rules governing the conduct of its business;

24 (2) a list of its members and subscribers;

25 (3) the name and address of a resident of the state upon whom
26 notices or orders of the director or process affecting the rating organi-
27 zation may be served; and

28 (4) a statement of its qualifications as a title insurance
29 rating organization.

1 (b) If the director finds that the applicant is competent, trust-
2 worthy, and otherwise qualified to act as a title insurance rating
3 organization, and that its constitution, articles of agreement or associ-
4 ation, or certificate of incorporation and its bylaws and rules governing
5 the conduct of its business conform to the requirements of law, the
6 director shall issue a license authorizing the applicant to act as a
7 title insurance rating organization. Each application shall be granted
8 or denied in whole or in part by the director within 60 days after the
9 date of its filing with him.

10 (c) A license issued under this section is in effect for three
11 years unless sooner suspended or revoked by the director or withdrawn by
12 the licensee. The fee for the license is \$100.

13 (d) A license issued under this section may be suspended or revoked
14 by the director, after hearing upon notice, if the title insurance
15 rating organization ceases to meet the requirements of this subsection.
16 Each title insurance rating organization shall notify the director
17 promptly of a change in

18 (1) its constitution, its articles of agreement or association
19 or its certificate of incorporation and its bylaws and rules governing
20 the conduct of its business;

21 (2) its list of members and subscribers; and

22 (3) the name and address of the resident of this state desig-
23 nated by it upon whom notices or orders of the director or process
24 affecting the rating organization may be served.

25 (e) Subject to rules that have been approved by the director as
26 reasonable, each title insurance rating organization shall permit any
27 title insurance company to be a member or a subscriber to its rating
28 services at a reasonable cost and without discrimination or to withdraw
29 as a member or subscriber.

1 (f) Notice of a proposed change in rules of the title insurance
2 rating organization must be given to members and subscribers. The
3 reasonableness of a rule in its application to subscribers, or the
4 refusal of a rating organization to admit a title insurance company as a
5 subscriber, shall, at the request of a subscriber or a title insurance
6 company, be reviewed by the director at a hearing held upon at least 10
7 days written notice to the rating organization and to the subscriber.
8 If the director finds that a rule is unreasonable in its application to
9 subscribers, he shall order that the rule may not apply to subscribers.
10 If the title insurance rating organization fails to grant or reject an
11 application of a title insurance company for subscribership within 30
12 days after it was made, the title insurance company may request a review
13 by the director as if the application had been rejected. If the director
14 finds that the title insurance company has been refused admittance to
15 the title insurance rating organization as a subscriber without justi-
16 fication, he shall order the rating organization to admit the title
17 insurance company as a subscriber. If he finds that the action of the
18 title insurance rating organization was justified, he shall make an
19 order affirming its action.

20 (g) Cooperation among title insurance rating organizations, or
21 among rating organizations and title insurance companies, and concert of
22 action among title insurance companies under the same general management
23 and control in rate making or in other matters within the scope of this
24 section is authorized, if the resulting filing is subject to the provi-
25 sions of this section that apply to filings generally.

26 (h) Two or more title insurance companies who are members of or
27 subscribers to a title insurance rating organization may act in concert
28 with each other with respect to the making of rates or rating systems,
29 the preparation or making of insurance policy forms, underwriting rules,

1 surveys, inspections and investigations, the furnishing of loss or
2 expense statistics or other information and data, or carrying out
3 research.

4 (1) The director may review the activities and practices under (g)
5 and (h) of this section. If, after a hearing, the director finds that
6 an activity or practice is unfair, unreasonable, or inconsistent with
7 the provisions of this section, he may issue a written order specifying
8 how the activity or practice is unfair, unreasonable, or inconsistent
9 with the provisions of this section and require discontinuance of the
10 activity or practice.

11 Sec. 21.66.402. DEVIATIONS FROM FILINGS OF RATING ORGANIZATION.
12 Each member of or subscriber to a title insurance rating organization
13 must adhere to the filings made on its behalf by that organization,
14 except a title insurance company that is a member of or subscriber to a
15 rating organization may file with the director a decrease or increase to
16 be applied to any elements of the rates produced by the rating system
17 for a class of title insurance that is found by the director to be a
18 proper rating unit for the application of the decrease or increase, or
19 to be applied to the rates for a particular area. The filing must
20 specify the basis for the deviation and be accompanied by the data or
21 historical pattern upon which the applicant relies. A copy of the
22 filing and data shall be sent simultaneously to the title insurance
23 rating organization. Each deviation shall be effective for one year
24 unless terminated sooner with the approval of the director, or in accor-
25 dance with the provisions of AS 21.66.400.

26 Sec. 21.66.403. APPEAL FROM ACTION OF RATING ORGANIZATION. (a) A
27 member of or subscriber to a title insurance rating organization may
28 appeal to the director from an action or decision of the rating organiza-
29 tion in approving or rejecting a proposed change in or addition to the

1 filings of the rating organization. The failure of a title insurance
2 rating organization to act within 30 days after submission to it of a
3 proposal under this section is a rejection of the proposal.

4 (b) The director shall, after a hearing held upon not less than 10
5 days written notice to the appellant and the rating organization, issue
6 an order approving the action or decision of the rating organization or
7 directing it to give further consideration to the proposal and to take
8 action or make a decision upon it within 30 days.

9 (c) If the appeal is from the action or decision of the title
10 insurance rating organization in rejecting a proposed addition to its
11 filings, the director may, if he finds that the action or decision was
12 unreasonable, issue an order directing the rating organization to make
13 an addition to its filing on behalf of its members or subscribers, in a
14 manner consistent with his findings, within a reasonable time after
15 issuance of the order. If the appeal is from the action of the title
16 insurance rating organization with regard to a rate or a proposed change
17 in or addition to its filings relating to the character and extent of
18 coverage, the director shall approve the action of the rating organiza-
19 tion or the modification as proposed by the appellant, if either is in
20 accordance with this chapter.

21 (d) If the appeal is based on the failure of the rating organiza-
22 tion to make a filing on behalf of the member or subscriber based on a
23 system of expense allocation that differs, in accordance with the right
24 granted in AS 21.66.390 from the system of expense allocation included
25 in a filing made by the rating organization, the director shall, if he
26 grants the appeal, order the rating organization to make the requested
27 filing for use by the appellant. In deciding the appeal, the director
28 shall apply the standards set out in AS 21.66.390.

29 * Sec. 8. AS 21.66.410(c) is amended to read:

1 (c) In order to more uniformly administer rate regulations, the
2 director and each title insurance company or title insurance rating
3 organization may exchange information and experience data with insurance
4 supervisory officials, title insurance companies and title insurance
5 rating organizations in other states, and may consult with them and with
6 each other with respect to rate making and the application of rating
7 systems.

8 * Sec. 9. AS 21.66.420 is amended to read:

9 Sec. 21.66.420. FALSE OR MISLEADING INFORMATION. No title insur-
10 ance company or title insurance agent may wilfully withhold information
11 from, or knowingly give false or misleading information to the director
12 or to any title insurance rating organization of which the title insur-
13 ance company is a member or subscriber which will affect the rates
14 chargeable under this chapter.

15 * Sec. 10. AS 21.66.430(a) is amended to read:

16 (a) The director may, if he finds that a title insurance rating
17 organization, a title insurance company, or title insurance agent has
18 violated a provision of this chapter, impose a penalty of not more than
19 \$100 for each violation. However, if the violation is wilful, he shall
20 impose a penalty of not more than \$1,000 for each violation. Penalties
21 imposed under this section are in addition to any other penalties pro-
22 vided by law.

23 * Sec. 11. AS 21.66.430(b) is amended to read:

24 (b) In addition to the penalty provided in (a) of this section,
25 the director may suspend the certificate of authority of a title insur-
26 ance rating organization, title insurance company, or title insurance
27 agent upon failure to comply with an order of the director within the
28 time limit allowed by the order. No certificate of authority may be
29 suspended for failure to comply with an order until the time prescribed

1 for an appeal has expired, or, if an appeal has been taken, until the
2 order has been affirmed.

3 * Sec. 12. This Act takes effect immediately in accordance with AS 01.10.-
4 070(c).

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