

Original sponsor: Kelly

Offered: 3/15/82  
Referred: Rules

1 IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

2

CS FOR SENATE BILL NO. 798 (L&C)

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

22

23

24

25

26

27

28

29

(c) Subject to the provisions of (e) of this section, each filing  
shall be on file for a period of 30 days before it becomes effective.  
The director may, upon written notice given within the 30-day period to  
the person making the filing, extend the waiting period for an additional  
period, not to exceed 30 days, in order to complete the review of the  
filing. Additional extensions of the waiting period may also be made  
with the consent of the title insurance company or rating organization.  
Upon written application by the title insurance company or rating organ-  
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 is repealed and reenacted to read:

6 Sec. 21.66.400. DISAPPROVAL OF FILINGS. (a) If within the wait-  
7 ing period provided for in AS 21.66.370(c) the director finds that a  
8 filing does not meet the requirements of this chapter, he shall send to  
9 the title insurance company or title insurance rating organization that  
10 made the filing, written notice of disapproval of the filing specifying  
11 in what respects he finds the filing fails to meet the requirements of  
12 this chapter and stating that the filing may not become effective.

13 (b) If at any time after the applicable review period provided for  
14 in AS 21.66.370(c) the director finds that a filing does not meet the  
15 requirements of this chapter, he shall, before issuing an order of  
16 disapproval, hold a hearing upon not less than 10 days written notice,  
17 specifying in reasonable detail the matters to be considered at the  
18 hearing. Notice of hearing shall be given to each title insurance  
19 company or title insurance rating organization that made the filing, and  
20 if, after the hearing, the director finds that the filing or a part of  
21 the filing does not meet the requirements of this chapter, he shall  
22 issue an order specifying how it is deficient, and when, within a reason-  
23 able period thereafter, the filing or a part of it is considered no  
24 longer effective. A title insurance company or title insurance rating  
25 organization has the right to withdraw a filing or a part of a filing.  
26 Copies of the order issued under this section shall be sent to every  
27 title insurance company and title insurance rating organization affected.  
28 The order does not affect a contract or policy made or issued before the  
29 expiration of the period set out in the order.

1 (c) A person or organization aggrieved with respect to a filing  
2 that is in effect may make a written application to the director for a  
3 hearing on the filing. The title insurance company or title insurance  
4 rating organization that made the filing may not proceed under this sub-  
5 section. The application shall specify in reasonable detail the grounds  
6 to be relied on by the applicant. If the director finds that the appli-  
7 cation is made in good faith, that the applicant would be aggrieved if  
8 the applicant's grounds are established, and that the applicant's grounds  
9 otherwise justify holding a hearing, the director shall, within 60 days  
10 after receipt of the application, hold a hearing upon not less than 10  
11 days written notice to the applicant and to each title insurance company  
12 or title insurance rating organization that made such a filing. If,  
13 after the hearing, the director finds that the filing or a part of it  
14 does not meet the requirements of this chapter he shall issue an order  
15 specifying how the filing or a part of it fails to meet the requirements  
16 of this chapter, stating when, within a reasonable period after the  
17 order is issued, the filing or a part of it is considered no longer  
18 effective. Copies of the order shall be sent to the applicant and to  
19 every affected title insurance company or title insurance rating organi-  
20 zation. The order does not affect a contract or policy made or issued  
21 before the expiration of the period set out in the order.

22 (d) A title insurance company or title insurance rating organiza-  
23 tion to which the director has issued an order made without a hearing  
24 may, within 30 days after notice to it of the order, make a written  
25 request to the director for a hearing. The director shall hear the  
26 party or parties within 60 days after receipt of the request and shall  
27 give not less than 10 days written notice of the time and place of the  
28 hearing. Within 15 days after the hearing the director shall affirm,  
29 reverse, or modify his previous action, specifying his reasons. Pending

1 the hearing and decision the director may suspend or postpone the effec-  
2 tive date of his previous action.

3 (e) A hearing under this section is not required to observe formal  
4 rules of pleading or evidence.

5 (f) A filing or modification of a filing may not be disapproved if  
6 the rates in connection with the filing meet the requirements of this  
7 chapter.

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

9 (b) A person or organization aggrieved with respect to a filing  
10 which is in effect [,] may make written application to the director for  
11 a hearing on the filing. The title insurance company or title insur-  
12 ance rating organization that made the filing may not proceed under this  
13 subsection. The application shall specify in reasonable detail the  
14 grounds to be relied upon by the applicant. If the director finds that  
15 the application is made in good faith, and that the applicant would be  
16 aggrieved if his grounds are established, and that his grounds otherwise  
17 justify holding a hearing, he shall, within 30 days after receipt of the  
18 application, hold a hearing upon not less than 10 days written notice to  
19 the applicant and to each title insurance company or title insurance  
20 rating organization which made such a filing. If, after the hearing,  
21 the director finds that the filing or a part of it does not meet the  
22 requirements of this chapter, he shall issue an order specifying how the  
23 filing or a part of it fails to meet the requirements of this chapter,  
24 stating when, within a reasonable period after the order is issued, the  
25 filing or a part of it is considered no longer effective. Copies of the  
26 order shall be sent to the applicant and to every such title insurance  
27 company or title insurance rating organization. The order does not  
28 affect a contract or policy made or issued before the expiration of the  
29 period set out in the order.

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

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

6 (1) a copy of its constitution, its articles of agreement or  
7 association, or its certificate of incorporation and a copy of its  
8 bylaws and rules governing the conduct of its business;

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

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

13 (4) a statement of its qualifications as a title insurance  
14 rating organization.

15 (b) If the director finds that the applicant is competent, trust-  
16 worthy, and otherwise qualified to act as a title insurance rating  
17 organization, and that its constitution, articles of agreement or associ-  
18 ation, or certificate of incorporation and its bylaws and rules governing  
19 the conduct of its business conform to the requirements of law, the  
20 director shall issue a license authorizing the applicant to act as a  
21 title insurance rating organization. Each application shall be granted  
22 or denied in whole or in part by the director within 60 days after the  
23 date of its filing with him.

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

27 (d) A license issued under this section may be suspended or revoked  
28 by the director, after hearing upon notice, if the title insurance  
29 rating organization ceases to meet the requirements of this subsection.

1 Each title insurance rating organization shall notify the director  
2 promptly of a change in

3 (1) its constitution, its articles of agreement or association  
4 or its certificate of incorporation and its bylaws and rules governing  
5 the conduct of its business;

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

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

10 (e) Subject to rules that have been approved by the director as  
11 reasonable, each title insurance rating organization shall permit any  
12 title insurance company to be a member or a subscriber to its rating  
13 services at a reasonable cost and without discrimination or to withdraw  
14 as a member or subscriber.

15 (f) Notice of a proposed change in rules of the title insurance  
16 rating organization must be given to members and subscribers. The  
17 reasonableness of a rule in its application to subscribers, or the  
18 refusal of a rating organization to admit a title insurance company as a  
19 subscriber, shall, at the request of a subscriber or a title insurance  
20 company, be reviewed by the director at a hearing held upon at least 10  
21 days written notice to the rating organization and to the subscriber.  
22 If the director finds that a rule is unreasonable in its application to  
23 subscribers, he shall order that the rule may not apply to subscribers.  
24 If the title insurance rating organization fails to grant or reject an  
25 application of a title insurance company for subscribership within 30  
26 days after it was made, the title insurance company may request a review  
27 by the director as if the application had been rejected. If the director  
28 finds that the title insurance company has been refused admittance to  
29 the title insurance rating organization as a subscriber without justi-

1        fication, he shall order the rating organization to admit the title  
2        insurance company as a subscriber. If he finds that the action of the  
3        title insurance rating organization was justified, he shall make an  
4        order affirming its action.

5                (g) Cooperation among title insurance rating organizations, or  
6        among rating organizations and title insurance companies, and concert of  
7        action among title insurance companies under the same general management  
8        and control in rate making or in other matters within the scope of this  
9        section is authorized, if the resulting filing is subject to the provi-  
10       sions of this section that apply to filings generally.

11               (h) Two or more title insurance companies who are members of or  
12       subscribers to a title insurance rating organization may act in concert  
13       with each other with respect to the making of rates or rating systems,  
14       the preparation or making of insurance policy forms, underwriting rules,  
15       surveys, inspections and investigations, the furnishing of loss or  
16       expense statistics or other information and data, or carrying out  
17       research.

18               (i) The director may review the activities and practices under (g)  
19       and (h) of this section. If, after a hearing, the director finds that  
20       an activity or practice is unfair, unreasonable, or inconsistent with  
21       the provisions of this section, he may issue a written order specifying  
22       how the activity or practice is unfair, unreasonable, or inconsistent  
23       with the provisions of this section and require discontinuance of the  
24       activity or practice.

25               Sec. 21.66.402. DEVIATIONS FROM FILINGS OF RATING ORGANIZATION.  
26       Each member of or subscriber to a title insurance rating organization  
27       must adhere to the filings made on its behalf by that organization,  
28       except a title insurance company that is a member of or subscriber to a  
29       rating organization may file with the director a decrease or increase to

1 be applied to any elements of the rates produced by the rating system  
2 for a class of title insurance that is found by the director to be a  
3 proper rating unit for the application of the decrease or increase, or  
4 to be applied to the rates for a particular area. The filing must  
5 specify the basis for the deviation and be accompanied by the data or  
6 historical pattern upon which the applicant relies. A copy of the  
7 filing and data shall be sent simultaneously to the title insurance  
8 rating organization. Each deviation shall be effective for one year  
9 unless terminated sooner with the approval of the director, or in accor-  
10 dance with the provisions of AS 21.66.400.

11 Sec. 21.66.403. APPEAL FROM ACTION OF RATING ORGANIZATION. (a) A  
12 member of or subscriber to a title insurance rating organization may  
13 appeal to the director from an action or decision of the rating organiza-  
14 tion in approving or rejecting a proposed change in or addition to the  
15 filings of the rating organization. The failure of a title insurance  
16 rating organization to act within 30 days after submission to it of a  
17 proposal under this section is a rejection of the proposal.

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

23 (c) If the appeal is from the action or decision of the title  
24 insurance rating organization in rejecting a proposed addition to its  
25 filings, the director may, if he finds that the action or decision was  
26 unreasonable, issue an order directing the rating organization to make  
27 an addition to its filing on behalf of its members or subscribers, in a  
28 manner consistent with his findings, within a reasonable time after  
29 issuance of the order. If the appeal is from the action of the title

1 insurance rating organization with regard to a rate or a proposed change  
2 in or addition to its filings relating to the character and extent of  
3 coverage, the director shall approve the action of the rating organiza-  
4 tion or the modification as proposed by the appellant, if either is in  
5 accordance with this chapter.

6 (d) If the appeal is based on the failure of the rating organiza-  
7 tion to make a filing on behalf of the member or subscriber based on a  
8 system of expense allocation that differs, in accordance with the right  
9 granted in AS 21.66.390 from the system of expense allocation included  
10 in a filing made by the rating organization, the director shall, if he  
11 grants the appeal, order the rating organization to make the requested  
12 filing for use by the appellant. In deciding the appeal, the director  
13 shall apply the standards set out in AS 21.66.390.

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

15 (c) In order to more uniformly administer rate regulations, the  
16 director and each title insurance company or title insurance rating  
17 organization may exchange information and experience data with insurance  
18 supervisory officials, title insurance companies and title insurance  
19 rating organizations in other states, and may consult with them and with  
20 each other with respect to rate making and the application of rating  
21 systems.

22 \* Sec. 9. AS 21.66.420 is amended to read:

23 Sec. 21.66.420. FALSE OR MISLEADING INFORMATION. No title insur-  
24 ance company or title insurance agent may wilfully withhold information  
25 from, or knowingly give false or misleading information to the director  
26 or to any title insurance rating organization of which the title insur-  
27 ance company is a member or subscriber which will affect the rates  
28 chargeable under this chapter.

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

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

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

(b) In addition to the penalty provided in (a) of this section, the director may suspend the certificate of authority of a title insurance rating organization, title insurance company, or title insurance agent upon failure to comply with an order of the director within the time limit allowed by the order. No certificate of authority may be suspended for failure to comply with an order until the time prescribed for an appeal has expired, or, if an appeal has been taken, until the order has been affirmed.

\* Sec. 12. This Act takes effect immediately in accordance with AS 01.10.070(c).