

Original sponsor: Kelly

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Referred: Rules

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

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HOUSE CS FOR 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 to
17 make these filings by becoming a member of, or a subscriber to, a li-
18 censed title insurance rating organization that makes such filings, and
19 by authorizing the commissioner to accept the filings on its behalf.

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

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(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
11 upon; [,]

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 is amended by adding new sections to read:

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

13 (1) a copy of its constitution, its articles of agreement or
14 association, or its certificate of incorporation and a copy of its
15 bylaws and rules governing the conduct of its business;

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

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

20 (4) a statement of its qualifications as a title insurance
21 rating organization.

22 (b) If the director finds that the applicant is competent, trust-
23 worthy, and otherwise qualified to act as a title insurance rating
24 organization, and that its constitution, articles of agreement or associ-
25 ation, or certificate of incorporation and its bylaws and rules governing
26 the conduct of its business conform to the requirements of law, the
27 director shall issue a license authorizing the applicant to act as a
28 title insurance rating organization. Each application shall be granted
29 or denied in whole or in part by the director within 60 days after the

1 date of its filing with him.

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3 years unless sooner suspended or revoked by the director or withdrawn by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

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

10 (1) its constitution, its articles of agreement or association
11 or its certificate of incorporation and its bylaws and rules governing
12 the conduct of its business;

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

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

17 (e) Subject to rules that have been approved by the director as
18 reasonable, each title insurance rating organization shall permit any
19 title insurance company to be a member or a subscriber to its rating
20 services at a reasonable cost and without discrimination or to withdraw
21 as a member or subscriber.

22 (f) Notice of a proposed change in rules of the title insurance
23 rating organization must be given to members and subscribers. The
24 reasonableness of a rule in its application to subscribers, or the
25 refusal of a rating organization to admit a title insurance company as a
26 subscriber, shall, at the request of a subscriber or a title insurance
27 company, be reviewed by the director at a hearing held upon at least 10
28 days written notice to the rating organization and to the subscriber.
29 If the director finds that a rule is unreasonable in its application to

1 subscribers, he shall order that the rule may not apply to subscribers.
2 If the title insurance rating organization fails to grant or reject an
3 application of a title insurance company for subscribership within 30
4 days after it was made, the title insurance company may request a review
5 by the director as if the application had been rejected. If the director
6 finds that the title insurance company has been refused admittance to
7 the title insurance rating organization as a subscriber without justifi-
8 cation, he shall order the rating organization to admit the title
9 insurance company as a subscriber. If he finds that the action of the
10 title insurance rating organization was justified, he shall make an
11 order affirming its action.

12 (g) Cooperation among title insurance rating organizations, or
13 among rating organizations and title insurance companies, and concert of
14 action among title insurance companies under the same general management
15 and control in rate making or in other matters within the scope of this
16 section is authorized, if the resulting filing is subject to the provi-
17 sions of this section that apply to filings generally.

18 (h) Two or more title insurance companies who are members of or
19 subscribers to a title insurance rating organization may act in concert
20 with each other with respect to the making of rates or rating systems,
21 the preparation or making of insurance policy forms, underwriting rules,
22 surveys, inspections and investigations, the furnishing of loss or
23 expense statistics or other information and data, or carrying out
24 research.

25 (i) The director may review the activities and practices under (g)
26 and (h) of this section. If, after a hearing, the director finds that
27 an activity or practice is unfair, unreasonable, or inconsistent with
28 the provisions of this section, he may issue a written order specifying
29 how the activity or practice is unfair, unreasonable, or inconsistent

1 with the provisions of this section and require discontinuance of the
2 activity or practice.

3 Sec. 21.66.402. DEVIATIONS FROM FILINGS OF RATING ORGANIZATION.

4 Each member of or subscriber to a title insurance rating organization
5 must adhere to the filings made on its behalf by that organization,
6 except a title insurance company that is a member of or subscriber to a
7 rating organization may file with the director a decrease or increase to
8 be applied to any elements of the rates produced by the rating system
9 for a class of title insurance that is found by the director to be a
10 proper rating unit for the application of the decrease or increase, or
11 to be applied to the rates for a particular area. The filing must
12 specify the basis for the deviation and be accompanied by the data or
13 historical pattern upon which the applicant relies. A copy of the
14 filing and data shall be sent simultaneously to the title insurance
15 rating organization. Each deviation shall be effective for one year
16 unless terminated sooner with the approval of the director, or in accor-
17 dance with the provisions of AS 21.66.400.

18 Sec. 21.66.403. APPEAL FROM ACTION OF RATING ORGANIZATION. (a) A
19 member of or subscriber to a title insurance rating organization may
20 appeal to the director from an action or decision of the rating organiza-
21 tion in approving or rejecting a proposed change in or addition to the
22 filings of the rating organization. The failure of a title insurance
23 rating organization to act within 30 days after submission to it of a
24 proposal under this section is a rejection of the proposal.

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

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

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

21 * Sec. 7. AS 21.66.410(c) is amended to read:

22 (c) In order to more uniformly administer rate regulations, the
23 director and each title insurance company or title insurance rating
24 organization may exchange information and experience data with insurance
25 supervisory officials, title insurance companies and title insurance
26 rating organizations in other states, and may consult with them and with
27 each other with respect to rate making and the application of rating
28 systems.

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

1 Sec. 21.66.420. FALSE OR MISLEADING INFORMATION. No title insur-
2 ance company or title insurance agent may wilfully withhold information
3 from, or knowingly give false or misleading information to the director
4 or to any title insurance rating organization of which the title insur-
5 ance company is a member or subscriber which will affect the rates
6 chargeable under this chapter.

7 * Sec. 9. AS 21.66.430(a) is amended to read:

8 (a) The director may, if he finds that a title insurance rating
9 organization, a title insurance company, or title insurance agent has
10 violated a provision of this chapter, impose a penalty of not more than
11 \$100 for each violation. However, if the violation is wilful, he shall
12 impose a penalty of not more than \$1,000 for each violation. Penalties
13 imposed under this section are in addition to any other penalties pro-
14 vided by law.

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

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

24 * Sec. 11. This Act takes effect immediately in accordance with AS 01.10.-
25 070(c).