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BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 522 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to payment of insurance premiums,
7 cancellation of insurance policies, and the provision
8 of medical malpractice insurance for nurse midwives;
9 and providing for an effective date."

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

11 * Section 1. AS 21.27.200(a) is amended read:

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(a) Except as provided in (c) of this section,

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(1) a [A] broker, as such, is not an agent or other

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representative of an insurer, and does not have power as a broker to

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bind the insurer upon any risk or with reference to any insurance

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contract; and

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(2) nothing [. NOTHING] in this section is intended to

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alter the common law of agency as applied to transactions under this

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title.

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* Sec. 2. AS 21.27.200 is amended by adding a new subsection to read:

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(c) For purposes of determining an insured's entitlement to

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coverage, a premium paid to the broker is considered to be received by

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the insurer, if the payment to the broker is designated for specific

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coverage from a specifically named insurer and is supported by compe-

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tent evidence.

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* Sec. 3. AS 21.36.210(a) is amended to read:

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(a) An insurer may not exercise its right to cancel a policy of

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personal [AN] automobile insurance [POLICY] except for the following

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reasons:

- 1 (1) nonpayment of premium; or
2 (2) the driver's license or motor vehicle registration of
3 either the named insured or of an operator who resides in the same
4 household as the named insured or who customarily operates a motor
5 vehicle insured under the policy has been under suspension or revoca-
6 tion during the policy period or, if the policy is a renewal, during
7 its policy period or the 180 days immediately preceding its effective
8 date.

9 * Sec. 4. AS 21.36.210(d) is amended to read:

- 10 (d) This section does not apply to
11 (1) the failure to renew a policy, except as to coverage in
12 force for less than 12 months;
13 (2) a policy that has been in effect less than 60 days at
14 the time notice of cancellation is mailed or delivered by the insurer,
15 unless it is a renewal policy;
16 (3) a policy issued under an automobile assigned risk plan
17 or automobile insurance plan;
18 (4) a policy insuring more than four motor vehicles;
19 (5) a policy covering the operation of a garage; automobile
20 sales agency, repair shop, or service station; or public parking
21 place;
22 (6) a policy providing insurance only on an excess basis;
23 (7) any other contract providing insurance to the named
24 insured, even though the contract may incidentally provide insurance
25 with respect to motor vehicles.

26 * Sec. 5. AS 21.36.210(f) is amended to read:

- 27 (f) An [NOTWITHSTANDING (e) OF THIS SECTION, AN] insurer may not
28 exercise its right to cancel a policy of personal insurance other than
29 personal automobile insurance, except for the following reasons [THE

1 TYPE DESCRIBED IN (e) OF THIS SECTION IF ONE OF THE FOLLOWING
2 CONDITIONS OR CIRCUMSTANCES ARISES]:

3 (1) nonpayment of premiums, including nonpayment of addi-
4 tional premiums, calculated in accordance with the current rating
5 manual of the insurer, justified by a physical change in the insured
6 property or a change in its occupancy or use;

7 (2) conviction of the insured of a crime having as one of
8 its necessary elements an act increasing a hazard insured against;

9 (3) discovery of fraud or material misrepresentation made
10 by the insured or a representative of the insured in obtaining the
11 insurance or by the insured in pursuing a claim under the policy;

12 (4) discovery of a grossly negligent act or omission by the
13 insured that substantially increases the hazards insured against; or

14 (5) physical changes in the insured property that result in
15 the property becoming uninsurable.

16 * Sec. 6. AS 21.36.220 is amended to read:

17 Sec. 21.36.220. NOTICE OF CANCELLATION. An insurer may not
18 exercise its right to cancel a personal insurance policy unless a
19 written notice of cancellation is mailed or delivered to the named
20 insured, at the address shown in the policy, at least 60 [20] days
21 before the effective date of cancellation. However, if [, EXCEPT THAT
22 WHEN] cancellation is for nonpayment of premium, the notice must
23 [SHALL] be mailed or delivered to the named insured at the address
24 shown in the policy at least 10 days before the effective date of
25 cancellation, and must [SHALL] include or be accompanied by a state-
26 ment of the reason for the cancellation. [THIS SECTION DOES NOT APPLY
27 TO THE FAILURE TO RENEW A POLICY, EXCEPT AS TO COVERAGE IN FORCE FOR
28 LESS THAN 12 MONTHS.]

29 * Sec. 7. AS 21.36.220 is amended by adding new subsections to read:

1 (b) An insurer may not exercise its right to cancel a policy of
2 business or commercial insurance unless a written notice of cancella-
3 tion is mailed or delivered to the named insured, at the address shown
4 in the policy, and to the agent or broker of record, at least 60 days
5 before the effective date of cancellation. However, if cancellation
6 is for nonpayment of premium, the notice must be mailed or delivered
7 to the named insured at the address shown in the policy and to the
8 agent or broker of record at least 10 days before the effective date
9 of cancellation, and must include or be accompanied by a statement of
10 the reason for the cancellation.

11 (c) If an insurer cancels a policy under (b) of this section, it
12 shall return any unearned premium to the agent or broker of record or
13 directly to the insured or premium finance company, if applicable,
14 before the effective date of cancellation, except that, if cancel-
15 lation is for nonpayment of premium, any unearned premium must be
16 returned within 45 days after the notice of cancellation is given.

17 * Sec. 8. AS 21.36.240 is amended to read:

18 Sec. 21.36.240. FAILURE TO RENEW. An insurer may not fail to
19 renew a personal insurance policy in force for less than 12 months.
20 An insurer may not fail to renew a policy [IN FORCE FOR 12 MONTHS OR
21 MORE] unless a written notice of nonrenewal is mailed or delivered to
22 the named insured, at the address shown in the policy, at least 20
23 days for a personal insurance policy, and at least 45 days for a
24 business or commercial insurance policy, before the expiration date of
25 the policy[,] or of the anniversary date of a policy written for a
26 term longer than one year or with no fixed expiration date. This
27 section does not apply

28 (1) if the insurer has in good faith manifested in any way
29 its willingness to renew;

1 (2) in case of nonpayment of premium for the expiring
2 policy; or

3 (3) if the insured fails to pay the premium as required by
4 the insurer for renewal.

5 * Sec. 9. AS 21.36.250 is amended to read:

6 Sec. 21.36.250. NOTICE OF ELIGIBILITY. When a policy of automo-
7 bile liability insurance is cancelled, other than for nonpayment of
8 premium, or is not renewed in accordance with [FOR FAILURE TO RENEW A
9 POLICY OF AUTOMOBILE LIABILITY INSURANCE TO WHICH] AS 21.36.240 [AP-
10 PLIES], the insurer shall notify the named insured of possible eligi-
11 bility for automobile insurance through the automobile assigned risk
12 plan, or automobile insurance plan. The notification must [SHALL]
13 accompany or be included in the notice of cancellation or nonrenewal
14 required by AS 21.36.220 [AS 21.36.230] and 21.36.240.

15 * Sec. 10. AS 21.36.310 is amended to read:

16 Sec. 21.36.310. DEFINITIONS. In AS 21.36.210 - 21.36.310

17 (1) "business or commercial insurance" means insurance
18 other than personal insurance, life insurance, disability insurance,
19 title insurance, or an annuity contract;

20 (2) "nonpayment of premium" means failure of the named
21 insured to discharge when due any obligations of the named insured in
22 connection with the payment of premium on a policy, or any installment
23 of the premium, whether the premium is payable directly to the insurer
24 or its agent or indirectly under any premium finance plan or extension
25 of credit;

26 (3) "personal automobile insurance" means insurance not
27 related to business or commercial activities, covering [(2) "POLICY"
28 MEANS AN INSURANCE POLICY COVERING THE RISKS AND EXPOSURES LISTED IN
29 AS 21.36.210(e) OR AN AUTOMOBILE POLICY THAT INCLUDES] automobile

1 liability, uninsured/underinsured motorists [COVERAGE, UNINSURED
2 MOTORIST COVERAGE], automobile medical payments [COVERAGE], or automo-
3 bile physical damage [COVERAGE], that is delivered or issued for
4 delivery in this state [INSURING AS THE NAMED INSURED, ONE INDIVIDUAL
5 OR HUSBAND AND WIFE RESIDENT OF THE SAME HOUSEHOLD], and under which
6 the insured vehicles are of the following types only:

7 (A) a motor vehicle of the private passenger or sta-
8 tion wagon type that is not used as a public or livery convey-
9 ance, nor rented to others; or

10 (B) any other four-wheel motor vehicle with a load
11 capacity of 1,500 pounds or less that is not used in the occupa-
12 tion, profession, or business of the insured, nor used as a
13 public or livery conveyance, nor rented to others;

14 (4) "personal insurance" does not include an annuity con-
15 tract or a policy of life insurance, disability insurance, or title
16 insurance; the term means personal automobile insurance, or insurance
17 covering

18 (A) loss of or damage to real property that is used
19 predominantly for residential purposes and that does not consist
20 of more than four dwelling units;

21 (B) loss of or damage to personal property, including
22 personal effects, household furniture, fixtures and equipment
23 located in not more than four dwelling units; or

24 (C) legal liability of natural persons for loss of,
25 damage to or injury to persons or property if the insurance does
26 not cover liability arising from or in connection with business
27 or commercial activities;

28 (5) [(3)] "renewal" or "renew" means

29 (A) the issuance and delivery by an insurer of a

1 policy replacing at the end of the policy period a policy previ-
2 ously issued and delivered by the same insurer,

3 (B) the issuance and delivery of a certificate or
4 notice extending the term of a policy beyond its policy period or
5 term, or

6 (C) the extension of the term of a policy beyond its
7 policy period or term under a provision for extending the policy
8 by payment of a continuation premium.

9 * Sec. 11. AS 21.88.050 is amended to read:

10 Sec. 21.88.050. POWERS AND DUTIES OF THE CORPORATION. (a) The
11 corporation shall

12 (1) in the form approved by the director, issue to all
13 physicians, nurse midwives, and hospitals who are found to be accept-
14 able risks under standards developed under (5) of this subsection, and
15 who pay the premiums for it, a contract or contracts indemnifying
16 physicians, nurse midwives, and hospitals and their employees who are
17 health care providers against loss by reason of liability for covered
18 claims for an act or omission in the delivery of professional health
19 care in this state, and agreeing to tender on behalf of the physi-
20 cians, nurse midwives, and hospitals and their employees who are
21 health care providers a defense to a covered claim in a proceeding
22 brought under AS 09.55.530 - 09.55.560; the limits of liability for
23 policies issued by the corporation shall be approved by the director;
24 the contract shall cover the defense against but need not indemnify
25 liability for punitive damages arising from a covered claim; at the
26 option of the corporation, if approved by the director, and for an
27 additional premium the contract may cover claims against the physi-
28 cian, nurse midwife, or hospital that arise out of professional ser-
29 vices performed by the physician, nurse midwife, or hospital for any

1 period before the contract is issued, except that coverage will not be
2 provided for a claim already filed or of which the physician, nurse
3 midwife, or hospital had or reasonably should have had notice at the
4 time the retroactive insurance was purchased;

5 (2) charge a premium for the protection provided by the
6 contracts issued by the corporation which shall be determined by the
7 board of governors in accordance with AS 21.88.080 and subject to the
8 approval of the director;

9 (3) comply with or be subject to AS 21.06.090, 21.06.120,
10 21.06.140, 21.06.160, 21.06.250, AS 21.09.180 - 21.09.200, 21.09.250,
11 21.09.280, AS 21.12.020(b)-(e), AS 21.18, AS 21.21, AS 21.24 and AS
12 21.36; and shall be exempt from participation as a member insurer in
13 the Alaska Insurance Guaranty Corporation;

14 (4) carry out the obligations of the contracts issued by
15 the corporation by defending all covered claims made against insured
16 health care providers and by paying all liabilities which are finally
17 adjudicated against the insured health care provider or which may in
18 the opinion of the corporation reasonably be expected to be finally
19 adjudicated against the health care provider to the extent of the
20 contract obligation;

21 (5) establish standards for the acceptability of risks; in
22 establishing these standards the corporation may exclude an applicant
23 for insurance based on individual risk selection factors, but may not
24 exclude an applicant based only on the classification of the appli-
25 cant.

26 (b) The corporation may

27 (1) employ or retain persons, individual or corporate, to
28 discharge its obligations and pay reasonable compensation for these
29 services; employees of the corporation are not considered state

1 employees;

2 (2) negotiate for and procure reinsurance from private
3 casualty insurers or reinsurers for any and all liability incurred by
4 contracts issued by it;

5 (3) provide coverage to insureds for other hazards custom-
6 arily included in medical malpractice insurance policies when there is
7 a finding by the director that this coverage is not available to
8 insureds of the Medical Indemnity Corporation of Alaska in the private
9 insurance market at a competitive price;

10 (4) borrow or advance funds necessary to carry out the
11 purposes of the corporation;

12 (5) negotiate and become a party to those contracts as are
13 necessary to carry out the purposes of the corporation;

14 (6) sue or be sued in the name of the corporation;

15 (7) provide risk management advice and services to hospi-
16 tals;

17 (8) negotiate and become a party to contracts for manage-
18 ment services for the corporation;

19 (9) perform all other acts necessary and proper to carry
20 out the duties of the corporation;

21 (10) in a form approved by the director and for an addition-
22 al premium determined under AS 21.88.080, issue endorsements which
23 provide indemnity for claims not yet reported which arise out of
24 professional services rendered during a period of continuous coverage
25 under the originally issued contract, to physicians, nurse midwives,
26 and hospitals who pay the premium for it and who are terminating their
27 original covered claims contract with the corporation for a period of
28 not less than one year;

29 (11) subject to approval by the director, extend coverage

1 to a person, entity, or facility that renders health care services in
2 the state under the supervision of a physician.

3 * Sec. 12. AS 21.88.900 is amended by adding a new paragraph to read:

4 (17) "nurse midwife" means a registered professional nurse
5 who is certified as an advanced nurse practitioner under AS 08.68.-
6 410(1) and authorized to practice as a nurse midwife under regulations
7 adopted in accordance with AS 08.68.

8 * Sec. 13. AS 21.36.210(c), 21.36.230, and 21.36.300 are repealed.

9 * Sec. 14. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).