

Introduced: 3/24/86  
Referred: Judiciary and  
Finance

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2 HOUSE BILL NO. 702

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 insurance; and providing for an  
7 effective date."

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 79. ALASKA REINSURANCE FUND.

11 Sec. 21.79.010. REINSURANCE FUND ESTABLISHED. (a) The Alaska  
12 reinsurance fund is established as an account in the general fund.  
13 The fund consists of appropriations made to it by law for the purposes  
14 of this chapter.

15 (b) Money in the fund may be used to pay

16 (1) reinsurance claims under the reinsurance coverage  
17 provided under AS 21.79.050; and

18 (2) administrative expenses of the Department of Commerce  
19 and Economic Development that are necessary or appropriate to carry  
20 out the purposes of this chapter.

21 Sec. 21.79.020. HEARINGS ON AVAILABILITY OF INSURANCE. (a)  
22 Within 30 days after receiving an application by a manufacturer,  
23 service provider, or a group or association representing manufacturers  
24 or service providers, the division shall hold a hearing on the  
25 availability and affordability of adequate commercial general liability  
26 insurance and other lines of insurance for the applicant or mem-  
27 bers of the applicant group or association.

28 (b) In addition to hearings under (a) of this section, the  
29 division may hold a hearing on the availability and affordability of

1 adequate commercial general liability insurance and other lines of  
2 insurance after a finding by the director that the line of insurance  
3 has become unavailable or unaffordable in the state.

4 Sec. 21.79.030. DETERMINATION OF AVAILABILITY OF INSURANCE. (a)  
5 Within 30 days after a hearing under AS 21.79.020, the director shall  
6 determine in writing, based on the hearing record, whether the insur-  
7 ance at issue in the hearing is, and will be, reasonably available and  
8 affordable to cover anticipated claims of the affected manufacturers  
9 or service providers.

10 (b) If the director determines under (a) of this section that a  
11 line of insurance is not available or affordable or will not be avail-  
12 able or affordable, the director may implement the insurance pool  
13 provisions of AS 21.79.040 or the reinsurance coverage described in  
14 AS 21.79.050, or both.

15 Sec. 21.79.040. INSURANCE POOLS. (a) After a determination of  
16 unavailability or unaffordability under AS 21.79.030(b), the director  
17 may encourage and assist insurers licensed to operate in the state to  
18 join together in insurance pools for the purpose of assuming, on the  
19 terms and conditions they agree to, a reasonable portion of respon-  
20 sibility for the adjustment and payment of claims arising from product  
21 or service related injuries, disabilities, illnesses, and deaths.

22 (b) Money from the insurance pools established under (a) of this  
23 section may be used only to pay claims resulting from product or  
24 service related actions in excess of amounts that are established each  
25 year by the director. The director may establish different amounts  
26 for each manufacturer, service provider, or insurer and each product  
27 or service based on the needs of the manufacturer, service provider,  
28 or insurer and other relevant factors.

29 (c) Insurance pools established under this section may be funded

1 by premiums paid by manufacturers or service providers to insurers  
2 approved by the director. If the director finds, after notice and  
3 public hearing, that the premiums charged by the insurance pools make  
4 the insurance from the pools unavailable or unaffordable for manufac-  
5 turers or service providers, the director may amend the terms and  
6 conditions of reinsurance under AS 21.79.050 to decrease the premiums  
7 to be paid.

8 Sec. 21.79.050. REINSURANCE COVERAGE. (a) After a finding of  
9 unavailability or unaffordability under AS 21.79.030(b), the director  
10 may take necessary action to make reinsurance coverage available to  
11 the insurance pools formed under AS 21.79.040. The director may also  
12 make reinsurance available directly to insurers that participate in  
13 pools established under AS 21.79.040 for the portion of their business  
14 that is related to a line of insurance that the director determines is  
15 unavailable or unaffordable under AS 21.79.030(b) but that is not  
16 within a pool created under AS 21.79.040. Action authorized under  
17 this subsection includes the authority to enter into a contract with  
18 an insurer or pool for reinsurance coverage based on a premium, fee,  
19 or other charge set by the director.

20 (b) The director shall include in a contract or arrangement  
21 under this section the terms the director considers necessary to carry  
22 out the purposes of this chapter. The reinsurance may be subject to  
23 deductibles and other restrictions and limitations.

24 (c) The director may not provide reinsurance under this section  
25 to a manufacturer, service provider, insurer, or pool of insurers that

26 (1) the director determines to be uninsurable; or  
27 (2) has not adopted reasonable protective measures to  
28 prevent loss, consistent with standards adopted by the director under  
29 AS 21.79.100(a).

1 (d) Reinsurance offered under this section shall reimburse an  
2 insurer or pool for its total proved and approved claims for covered  
3 losses resulting from product or service related injuries, disabil-  
4 ities, illnesses, and deaths during the term of the reinsurance con-  
5 tract or other agreement, above the amount of the insurer's or pool's  
6 retention of the losses as provided in the reinsurance contract.

7 (e) Reinsurance claims under this section shall be paid from the  
8 fund established in AS 21.79.010.

9 Sec. 21.79.060. CONTRACTING WITH INSURANCE COMPANIES. The  
10 director may contract with a private insurer, agent, broker, or insur-  
11 ance organization to administer the programs established under this  
12 chapter, except that the director may not delegate the responsibili-  
13 ties described in AS 21.79.020.

14 Sec. 21.79.100. GENERAL RESTRICTIONS ON PROGRAMS UNDER THIS  
15 CHAPTER. (a) The director shall ensure that programs operated under  
16 this chapter

17 (1) do not act as disincentives for improvements in product  
18 safety or safe service delivery;

19 (2) promote product safety and safe service delivery  
20 through the establishment of models for risk management that are  
21 agreed on by the director, insurers, and insureds and adopted by the  
22 director by regulation as a prerequisite for eligibility for any  
23 programs under this chapter.

24 (b) A manufacturer or service provider that benefits from a  
25 program under this chapter shall agree that the relevant product or  
26 service will remain available to the public during the period in which  
27 the manufacturer or service provider participates in the programs.

28 (c) An insurer that benefits from programs under this chapter  
29 shall agree that insurance that is written during the period in which

1 the insurer or its insured manufacturer or service provider partic-  
2 ipates in the programs will have premiums that are based on an experi-  
3 ence rate.

4 Sec. 21.79.110. ENFORCEMENT OF THIS CHAPTER. (a) At the re-  
5 quest of the director, the attorney general shall bring an action in  
6 the appropriate court to recover from an insurer the amount of an  
7 unpaid premium lawfully payable by the insurer to the director or its  
8 delegated agent.

9 (b) An action under this section must be brought within five  
10 years of the date the right to payment accrued. If false or fraudu-  
11 lent conduct warrants, the claim is not considered to have accrued  
12 until its discovery.

13 (c) A recovery under this section shall be deposited in the  
14 general fund.

15 Sec. 21.79.200. PERIODIC REVIEW OF PROGRAMS. The director shall  
16 periodically review the programs operating under this chapter and  
17 annually report to the legislature within the first 10 days of each  
18 regular session, beginning with the Second Session of the Fifteenth  
19 Legislature, concerning

20 (1) whether the programs are effectively making commercial  
21 general liability and other essential lines of liability insurance  
22 readily available to the intended manufacturers and service providers;

23 (2) the director's recommendations for revising this chap-  
24 ter in order that it may more effectively achieve its purposes.

25 \* Sec. 2. By the fifth day of the First Session of the Fifteenth Legis-  
26 lature, the commissioner of commerce and economic development shall report  
27 to the legislature concerning

28 (1) the nature and extent of anticipated use of the insurance  
29 industry in the delivery of reinsurance under this Act to manufacturers,

1 service providers, insurers, and pools of insurance;

2           (2) anticipated costs of providing reinsurance under this Act to  
3 manufacturers, service providers, insurers, and pools of insurance;

4           (3) the identity of potential applicants that have contacted the  
5 department about the programs that would be authorized under this Act; and

6           (4) the identity of affected parties that might benefit from  
7 participation in the programs authorized under this Act.

8 \* Sec. 3. Section 2 of this Act takes effect immediately in accordance  
9 with AS 01.10.070(c).

10 \* Sec. 4. Section 1 of this Act takes effect March 1, 1987.