

CS SB 404(L4D)

Introduced: 2/13/86
Referred: Labor and Commerce
and Finance

1 IN THE SENATE

BY JOSEPHSON

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SENATE BILL NO. 404

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to insurance; authorizing joint insurance arrangements; repealing a prohibition against certain types of group insurance; and providing for an effective date."

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

11 * Section 1. AS 21 is amended by adding a new chapter to read:

12

CHAPTER 76. JOINT INSURANCE ARRANGEMENTS.

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Sec. 21.76.010. AUTHORITY TO ESTABLISH JOINT INSURANCE ARRANGEMENTS.

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(a) Municipalities, school districts, and regional educational attendance areas may enter into cooperative agreements with each other for the purpose of establishing, operating, or participating in joint insurance arrangements through which the participating members agree to pool contributions and

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(1) assume risks from losses on a group basis; or

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(2) purchase coverage on a group basis.

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(b) A joint insurance arrangement may be for any kind of insurance defined by this title except for

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(1) life, annuity, disability, and title insurance; and

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(2) surety.

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(c) A joint insurance arrangement shall be considered an alternative or supplement to any other policy or contract of insurance authorized or required by law, including insurance under AS 21.75.

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Sec. 21.76.020. REGULATION BY DIVISION OF INSURANCE. A joint

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insurance arrangement may not be considered insurance for the purpose

1 of any other law of the state and is not subject to regulations of the
2 director except as expressly provided in this chapter.

3 Sec. 21.76.030. GENERAL PROVISIONS OF COOPERATIVE AGREEMENTS. A
4 cooperative agreement shall provide for the proper operation of the
5 joint insurance arrangement, and include provisions for

6 (1) administration of the arrangement by a board of direc-
7 tors, specifying the number of members of the board and other require-
8 ments necessary for the proper functioning of the board;

9 (2) appointment of an administrator and other persons as
10 necessary for the proper functioning of the arrangement;

11 (3) organization of the arrangement, including a roster of
12 participating members and the names of the members of the board of
13 directors;

14 (4) procedures to establish and promote an aggressive risk
15 management and program among the members of the arrangement, including
16 procedures for identifying and reducing the risks that can be reduced
17 through implementing better safety technologies and improved work
18 techniques and procedures;

19 (5) enforcing the collection of contributions or payments
20 in default from members of the arrangement;

21 (6) the addition of new members to the arrangement or the
22 withdrawal of members from the arrangement;

23 (7) the method of apportioning costs and disposition of
24 excess contributions;

25 (8) transmission of financial statements and audit reports
26 of the arrangement to participating members;

27 (9) terminating the arrangement and disposing of its as-
28 sets; and

29 (10) establishing and administering a joint insurance fund.

1 Sec. 21.76.040. FINANCIAL PROVISIONS OF AGREEMENTS. (a) A
2 cooperative agreement must include a provision requiring an annual
3 determination by a casualty actuary who is a member of the American
4 Academy of Actuaries that procedures for establishing reserves for
5 losses of the joint insurance arrangement are actuarially sound.

6 (b) A joint insurance arrangement shall be subject to an annual
7 independent audit. The audit shall be conducted in accordance with
8 generally accepted auditing standards and must include a review of the
9 actuarial assumptions used for establishing the reserves under (a) of
10 this section. The audit report must include certification from a
11 casualty actuary who is a member of the American Academy of Actuaries
12 that the actuarial assumptions continue to be sound and the level of
13 the reserves are adequate.

14 (c) A joint insurance arrangement shall use a method of account-
15 ing that conforms with generally accepted government accounting prin-
16 ciples.

17 Sec. 21.76.050. CONTRACTING WITH PRIVATE ADMINISTRATORS. A
18 cooperative agreement may authorize the board of directors to enter
19 into contracts for services necessary to perform the functions of a
20 joint insurance arrangement. The person contracting to perform the
21 functions must be appropriately licensed under this title if this
22 title so requires.

23 Sec. 21.76.060. DELEGATION OF POWER TO SETTLE CLAIMS. A cooper-
24 ative agreement may delegate to the board of directors, or authorize
25 delegation by the board to another person or group, the power to
26 compromise, arbitrate, or otherwise settle claims on behalf of the
27 arrangement.

28 Sec. 21.76.070. EXCESS INSURANCE. A cooperative agreement may
29 authorize the board of directors to purchase excess or catastrophic

1 insurance on behalf of the joint insurance arrangement. The cost of
2 the insurance shall be apportioned in the manner specified in the
3 joint insurance agreement. The board may purchase insurance under
4 this section only from an insurer authorized to do business in the
5 state or from an unauthorized insurer if the insurance is placed
6 through a licensed surplus lines broker.

7 Sec. 21.76.080. JOINT INSURANCE FUND. (a) A joint insurance
8 arrangement shall establish a joint insurance fund. The fund consists
9 of money

10 (1) contributed by members of the joint insurance arrange-
11 ment through budgetary appropriations or transfers from a self-
12 insurance reserve; and

13 (2) collected by the joint insurance arrangement through
14 subrogation of a claim paid from the fund to a member of the arrange-
15 ment.

16 (b) An expenditure may be made from a joint insurance fund only
17 to pay claims, losses, or benefits, including interest on them, and
18 the administrative and adjustment expenses incurred in connection with
19 them, involving the types of protection for which the fund provides
20 coverage as specified in the joint insurance agreement.

21 (c) The administrator shall keep the fund separate from other
22 funds of a member of a joint insurance arrangement.

23 (d) For each type of protection offered by the joint insurance
24 arrangement, the method of accounting must show the order, source,
25 date, and amount of each payment from the fund.

26 (e) Within 60 days of the end of the fiscal year, the adminis-
27 trator shall furnish a detailed report of the operation and condition
28 of the fund to the board of directors and the director of insurance.
29 The report furnished to the director of insurance shall be available

1 for public inspection.

2 (f) Money held by a fund as reserves and money not needed for
3 daily operations may be invested by the board of directors.

4 (g) A fund may not be terminated unless the administrator certi-
5 fies that an amount of money sufficient to pay accrued and contingent
6 expenditures has been placed in a fully collateralized escrow account.

7 Sec. 21.76.090. FILING OF AGREEMENT. The board of directors
8 shall file a copy of the cooperative agreement with the director of
9 insurance at least 60 days before the effective date of the agreement.
10 The agreement shall be available for public inspection.

11 Sec. 21.76.100. REGULATIONS. A cooperative agreement may au-
12 thorize the board of directors to adopt regulations not inconsistent
13 with law for the fair and equitable administration of the joint insur-
14 ance arrangement and the joint insurance fund.

15 Sec. 21.76.110. SUBROGATION. A joint insurance arrangement has
16 a cause of action for reimbursement of money paid to a participating
17 member for a loss or injury if the participating member recovers money
18 for the loss or injury from a third party. The joint insurance
19 arrangement also has a direct cause of action for reimbursement
20 against a third party responsible for loss or injuries sustained by a
21 participating member if the joint arrangement has paid money to the
22 participating member for the loss or injuries.

23 Sec. 21.76.900. DEFINITIONS. In this chapter

24 (1) "adjustment expenses" means expenses for investigative,
25 processing, legal, actuarial, arbitration, and settlement services
26 incurred in the adjustment of losses, claims, or benefits;

27 (2) "administrator" means a person or group appointed by
28 the board of directors to administer a joint insurance arrangement or
29 a joint insurance fund;

1 (3) "board" or "board of directors" means the board of
2 directors provided for in a cooperative agreement;

3 (4) "cooperative agreement" means a written agreement
4 entered into by two or more entities described in AS 21.76.010 for the
5 purpose of establishing, operating, or participating in a joint insur-
6 ance arrangement;

7 (5) "fund" or "joint insurance fund" means a fund estab-
8 lished under AS 21.76.080;

9 (6) "joint insurance arrangement" means a joint insurance
10 arrangement authorized under AS 21.76.010.

11 * Sec. 2. AS 21.39.155(a) is amended to read:

12 (a) The director may require carriers, except a reciprocal
13 insurer formed by and insuring only a group of municipalities or
14 nonprofit public utilities under AS 21.75 or a joint insurance ar-
15 angement formed under AS 21.76, as a condition of writing a line of
16 insurance dealing with workers' compensation, to participate in an
17 assigned risk pool if the director finds that mandatory carrier part-
18 icipation is in the public interest.

19 * Sec. 3. AS 21.80.180(5) is amended to read:

20 (5) "insolvent insurer" means an insurer

21 (A) authorized to transact insurance in this state,
22 except an assessable reciprocal insurer formed by and insuring
23 only municipalities or nonprofit public utilities, a joint insur-
24 ance arrangement formed under AS 21.76, the Medical Indemnity
25 Corporation of Alaska, and the Health Care Providers Joint Under-
26 writing Association established under AS 21.88, either at the
27 time the policy was issued or when the insured event occurred,
28 and

29 (B) determined to be insolvent by a court of

1 competent jurisdiction;

2 * Sec. 4. AS 21.80.180(6) is amended to read:

3 (6) "member insurer" means a person, except an assessable
4 reciprocal insurer formed by and insuring only municipalities or
5 nonprofit public utilities, a joint insurance arrangement formed under
6 AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health
7 Care Providers Joint Underwriting Association established under
8 AS 21.88, who

9 (A) writes any kind of insurance to which this chap-
10 ter applies under AS 21.80.020 including the exchange of recipro-
11 cal or interinsurance contracts, and

12 (B) is licensed to transact insurance in this state;

13 * Sec. 5. AS 21.36.190 is repealed.

14 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).