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1 IN THE SENATE

BY V. FISCHER

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SENATE BILL NO. 445

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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."

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

8 * Section 1. AS 21.06.030(c) is amended to read:

9 (c) The director shall [MAY] employ a competent insurance actu-
10 ary to perform actuarial duties, if any, of the division, to take
11 charge of or assist in the examination of insurers, and to perform
12 other assigned duties. The actuary shall serve as the head of the
13 consumer advocate section established under AS 21.06.035.

14 * Sec. 2. AS 21.06 is amended by adding a new section to read:

15 Sec. 21.06.035. CONSUMER ADVOCATE SECTION. (a) There is estab-
16 lished in the division a consumer advocate section.

17 (b) In addition to the actuary employed under AS 21.06.030(c),
18 the section must include at least one financial analyst who is compe-
19 tent to analyze data provided by insurers and other sources to deter-
20 mine the adequacy of insurance coverage offered by insurers in the
21 state and the fairness of insurance rates in the state for the cover-
22 age offered.

23 (c) In addition to other assigned duties, the consumer advocate
24 section may

25 (1) investigate, upon complaint or upon its own motion, the
26 rates, classifications, rules, regulations, practices, services, and
27 facilities of an insurer and hold hearings on them;

28 (2) recommend to the director fair and reasonable rates,
29 classifications, regulations, practices, services, and facilities

1 related to insurers;

2 (3) appear personally or by counsel and represent the
3 interests and welfare of insurance consumers in all matters and pro-
4 ceedings involving an insurer pending before an officer, department,
5 board, commission, or court of the state or of another state or the
6 United States and intervene in, protest, resist, or advocate the
7 granting or denial or modification of any petition, application,
8 complaint or other proceeding;

9 (4) examine witnesses and offer evidence in any proceeding
10 affecting insurance consumers and initiate or participate in judicial
11 proceedings to the extent necessary to protect and promote the inter-
12 ests of the state and its insurance consumers; and

13 (5) otherwise represent the rights and interests of in-
14 sureds within the division during the performance of the division's
15 duties.

16 * Sec. 3. AS 21.06 is amended by adding new sections to read:

17 Sec. 21.06.043. IMPROPER REPRESENTATION. (a) An employee of
18 the division may not represent, advise, or assist a person in a matter
19 pending before the division or the department if the representation,
20 advice, or assistance is

21 (1) for compensation, unless the representation, advice,
22 assistance, and compensation are required by statute, regulation, or
23 court rule, or is otherwise customary; or

24 (2) without compensation, but rendered to benefit the per-
25 sonal or financial interests of the employee.

26 (b) This section does not prohibit activities related to collec-
27 tive bargaining.

28 Sec. 21.06.045. OUTSIDE EMPLOYMENT RESTRICTED. (a) An employee
29 of the division may not render services to benefit a personal or

1 financial interest or engage in or accept employment outside the
2 department if the outside employment or service is incompatible or in
3 conflict with the proper discharge of official duties.

4 (b) An employee rendering services for compensation or engaging
5 in employment outside the department shall quarterly report the out-
6 side employment activities to the employee's supervisor.

7 Sec. 21.06.047. RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE
8 SERVICE. (a) An employee of the division who leaves state service
9 may not, for two years after leaving state service, represent a person
10 for compensation regarding a matter that was under consideration by
11 the division or the department if the employee participated personally
12 and substantially in the matter through the exercise of official
13 action. In this subsection, "matter" includes a case, proceeding,
14 application, or determination, but does not include the proposal or
15 consideration of legislative bills, resolutions, and constitutional
16 amendments, or other legislative measures; or the proposal, consid-
17 eration, or adoption of administrative regulations.

18 (b) This section does not prohibit the division or department
19 from contracting with a former employee to act on a matter on behalf
20 of the state.

21 * Sec. 4. AS 21.06 is amended by adding a new section to read:

22 Sec. 21.06.105. REPORTS CONCERNING COURT AWARDS. The director
23 shall obtain a report on each judgment for a plaintiff in an action
24 based on fault that sought damages for personal injury or property
25 damage. The report must include

26 (1) the amount of the judgment, categorized in relation to
27 punitive damages, noneconomic damages, economic damages, compensation
28 for loss of earnings and earning capacity, and compensation for neces-
29 sary medical expenses; these amounts shall be further categorized as

1 to whether they are for incurred losses or future damages;

2 (2) a factual summary of the case sufficient to compare the
3 award in each case with other similar cases, including cases from
4 other states.

5 * Sec. 5. AS 21.06.110 is amended to read:

6 Sec. 21.06.110. DIRECTOR'S ANNUAL REPORT. As early in each
7 calendar year as is reasonably possible the director shall prepare and
8 deliver an annual report to the legislature and the commissioner,
9 showing, with respect to the preceding calendar year,

10 (1) a list of the authorized insurers transacting insurance
11 in Alaska, with such summary of their financial statement as the
12 director considers appropriate;

13 (2) the name of each insurer whose business was closed
14 during the year, the cause of the closing, and the amount of ascer-
15 tainable assets and liabilities of each closed business;

16 (3) the name of each insurer against which delinquency or
17 similar proceedings were instituted, and a concise statement of the
18 facts with respect to each proceeding and its present status;

19 (4) a statement in regard to examination of rating orga-
20 nizations, advisory organizations, joint underwriters, and joint
21 reinsurers as required by AS 21.39.120;

22 (5) the receipts and expenses of the division for the year;

23 (6) recommendations of the director as to amendments or
24 supplementation of laws affecting insurance, or the office of direc-
25 tor;

26 (7) a description of market assistance plans developed by
27 the division and their effectiveness in terms of promoting the avail-
28 ability of insurance in the state at affordable rates;

29 (8) a statistical summary of data about court awards for

1 damages and losses prepared under AS 21.06.105 and a comparison of
2 that data with similar data from other states;

3 (9) other pertinent information and matters the director
4 considers proper.

5 * Sec. 6. AS 21.09 is amended by adding a new section to read:

6 Sec. 21.09.205. REQUIREMENT OF RECORDING AND REPORTING. (a)
7 The director shall adopt regulations requiring insurers that are au-
8 thorized to write property and casualty insurance in the state to
9 annually record and report their Alaska loss and expense experiences
10 and other data, as required by (b) of this section.

11 (b) The annual report required by (a) of this section must
12 include information pertaining to both commercial and personal pol-
13 icies of property and casualty insurance written by the insurers. The
14 report must include the following data by insurer and the type of
15 insurance for the previous calendar year:

- 16 (1) direct premiums written;
- 17 (2) direct premiums earned;
- 18 (3) net investment income, including net realized capital
19 gains and losses, using appropriate estimates where necessary;
- 20 (4) dollar amount of claims closed with payments;
- 21 (5) reserves for reported claims at the end of the current
22 year;
- 23 (6) reserves for reported claims at the end of the previous
24 year;
- 25 (7) reserves for incurred but not reported claims at the
26 end of the current year;
- 27 (8) reserves for incurred but not reported claims at the
28 end of the previous year;
- 29 (9) reserves for loss adjustment expense at the end of the

1 current year;

2 (10) reserves for loss adjustment expense at the end of the
3 previous year;

4 (11) actual incurred expenses allocated separately to loss
5 adjustment, commissions, other acquisition costs, advertising, general
6 office expenses, taxes, licenses and fees, and all other expenses;

7 (12) net underwriting gain or loss;

8 (13) net operation gain or loss, including net investment
9 income;

10 (14) the number and dollar amount of claims closed with
11 payment, by year incurred and the amount reserved for them;

12 (15) the number of claims closed without payment and the
13 dollar amount reserved for those claims; and

14 (16) other information requested by the director.

15 (c) The report required under this section shall be included in
16 the annual statement required under AS 21.09.200.

17 * Sec. 7. AS 21.36.210 is repealed and reenacted to read:

18 Sec. 21.36.210. LIMITS ON CANCELLATION. An insurer may not
19 cancel an insurance policy in this state except for nonpayment of
20 premium.

21 * Sec. 8. AS 21.36.220 is amended to read:

22 Sec. 21.36.220. NOTICE OF CANCELLATION. An insurer may not
23 exercise its right to cancel a policy [UNLESS A WRITTEN NOTICE OF
24 CANCELLATION IS MAILED OR DELIVERED TO THE NAMED INSURED, AT THE
25 ADDRESS SHOWN IN THE POLICY, AT LEAST 20 DAYS BEFORE THE EFFECTIVE
26 DATE OF CANCELLATION, EXCEPT THAT WHEN CANCELLATION IS] for nonpayment
27 of premium unless [THE] notice is [SHALL BE] mailed or delivered to
28 the named insured at the address shown in the policy at least 10 days
29 before the effective date of cancellation. The notice must [AND

1 SHALL] include or be accompanied by a statement of the reason for the
2 cancellation. This section does not apply to the failure to renew a
3 policy, except as to coverage in force for less than 12 months.

4 * Sec. 9. AS 21.36.240 is amended to read:

5 Sec. 21.36.240. FAILURE TO RENEW. An insurer may not fail to
6 renew a policy in force for less than 12 months. An insurer may not
7 fail to renew a policy in force for 12 months or more unless a written
8 notice of nonrenewal is mailed or delivered to the named insured, at
9 the address shown in the policy, and to the director at least 60 [20]
10 days before the expiration date of the policy, or of the anniversary
11 date of a policy written for a term longer than one year or with no
12 fixed expiration date. The notice must include a statement of the
13 reason for nonrenewal. This section does not apply

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

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

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

20 * Sec. 10. AS 21.39 is amended by adding a new section to read:

21 Sec. 21.39.055. HEARINGS ON RATE INCREASES. (a) If, within the
22 waiting period specified in AS 21.39.040(d), the director finds that a
23 filing related to general commercial liability or property insurance
24 represents a 25 percent or greater increase in rates on file for that
25 type of insurance offered by the insurer or rating organization imme-
26 diately before the filing, the director shall send to the insurer or
27 rating organization written disapproval of the filing, stating that
28 the filing may not become effective until after a public hearing under
29 this section.

1 (b) The director shall hold a public hearing required by (a) of
2 this section within 45 days of receiving the filing upon not less than
3 15 days' written notice to the affected insurer or rating organiza-
4 tion.

5 (c) The director shall give public notice of a hearing held
6 under this section in a manner designed to reach persons or groups
7 that would be affected by the rate increase so that they may partici-
8 pate fully in the hearing.

9 (d) A rate filing subject to a hearing under this section be-
10 comes effective 10 days after the public hearing held under this
11 section unless disapproved by the director for failure to meet the
12 requirements of this chapter.

13 * Sec. 11. The first annual report required under AS 21.09.205, enacted
14 by sec. 6 of this Act, is due from each insurer covered under that section
15 by March 31, 1987. In addition, the data required under AS 21.09.205 shall
16 be reported by year in the same manner to the director of insurance for the
17 calendar years 1975 through 1985. This report is also due March 31, 1987.

18 * Sec. 12. In addition to the annual report required under AS 21.06.-
19 110, by the 10th day of the First Session of the Fifteenth Legislature, the
20 director of insurance shall report to the legislature concerning

21 (1) the extent to which commercial general liability and other
22 essential lines of liability and property insurance are readily available
23 at rates that are neither excessive nor inadequate for municipalities,
24 school districts, service providers, manufacturers, and other persons or
25 entities in the state;

26 (2) recommendations to the legislature for increased resources
27 or legislation needed to enable the division to effectively regulate the
28 insurance industry in this state and to promote the availability of general
29 liability and property insurance at rates that are neither excessive nor

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1 inadequate.