

Introduced: 1/19/87
Referred: Labor & Commerce and
Judiciary

BY NAVARRE, SWACKHAMMER
AND SUND

1 IN THE HOUSE

HOUSE BILL NO. 46

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to insurance agents and brokers; and
7 providing for an effective date."

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

9 * Section 1. AS 21.27.200(a) is repealed and reenacted to read:

10 (a) A broker is not an agent or other representative of an
11 insurer, and except as provided under (c) of this section, does not
12 have power as a broker to bind the insurer regarding a risk or an
13 insurance contract.

14 * Sec. 2. AS 21.27.200 is amended by adding new subsections to read:

15 (c) In determining an insured's entitlement to coverage or
16 return premium, a premium payment made to a broker evidenced by ac-
17 ceptable proof of payment shall be considered received by the insurer
18 if

19 (1) the payment was, at the time it was made, designated
20 for specific coverage from a specifically named insurer; and

21 (2) the insurer accepted or acknowledged coverage by issu-
22 ing a policy, binder, or other contract for temporary insurance.

23 (d) This section is not intended to alter the common law of
24 agency as applied to transactions under this title.

25 * Sec. 3. AS 21.27.350(a) is amended to read:

26 (a) Each agent, broker, or adjuster shall keep at the address as
27 shown on the license a record of all transactions consummated under
28 the license. This record shall be maintained in accordance with
29 generally accepted accounting principles [IN ORGANIZED FORM] and must

1 include

2 (1) if an agent or broker,

3 (A) a record of each insurance contract procured,
4 issued, or countersigned, together with the names of the insurers
5 and insureds, the amount of premium paid or to be paid, and a
6 statement of the subject of the insurance;

7 (B) the names of any other licensees from whom busi-
8 ness is accepted, and of persons to whom commissions or allow-
9 ances of any kind are promised or paid;

10 (2) if an adjuster, a record of each investigation or
11 adjustment undertaken or consummated, and a statement of the fee,
12 commission, or other compensation received or to be received by the
13 adjuster on account of the investigation or adjustment;

14 (3) additional information that [WHICH] is customary, or
15 that [WHICH] may reasonably be required by the director.

16 * Sec. 4. AS 21.27.350(b) is amended to read:

17 (b) The records of a particular transaction shall be kept avail-
18 able and open to the inspection of the director at any business time
19 during the five years immediately after the date of the completion of
20 the transaction. Records inspected under this subsection are confi-
21 dential.

22 * Sec. 5. AS 21.27.360(b) is amended to read:

23 (b) All funds, except those made payable to the insurer, repre-
24 senting premiums or return premiums received by an agent or broker,
25 shall be received in the fiduciary account of the agent or broker, and
26 shall be deposited in a bank account or depository separate from any
27 other account or depository, and shall be promptly accounted for and
28 paid to the insured, insurer, or agent entitled to the funds. Funds
29 deposited into a fiduciary account may not be commingled or otherwise

1 combined with other funds, except as allowed under (d) of this sec-
2 tion.

3 * Sec. 6. AS 21.27.360 is amended by adding new subsections to read:

4 (d) An agent or broker may commingle with premium funds, addi-
5 tional funds for the purpose of advancing premiums, establishing
6 reserves for the payment of return premiums, or reserves for receiving
7 and transmitting premium or return premium funds. Funds collected for
8 the payment of premium taxes, policy or filing fees, late payment
9 charges, and interest from fiduciary funds on deposit, may be com-
10 mingled in a fiduciary account, but must be separately accounted for
11 and periodically removed from the fiduciary account.

12 (e) An agent or broker may not treat funds in a fiduciary ac-
13 count as a personal asset, as collateral for a personal or business
14 loan, or as a personal asset or income on a financial statement,
15 except that funds in a fiduciary account may be included in a finan-
16 cial statement of the agent or broker if clearly identified as fidu-
17 ciary account assets.

18 (f) In this section, "fiduciary account" means an account in
19 which the agent or broker holds funds as a trustee for the insured,
20 insurer, or agent entitled to the funds.

21 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).