

SENATE BILL NO. 212 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

Amended: 5/10/91
Introduced: 3/18/91
Referred: L&C and Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Medical Indemnity Corporation of Alaska and to medical
2 malpractice insurance; and providing for an effective date."

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

4 * Section 1. AS 09.55.560 is amended to read:

5 Sec. 09.55.560. DEFINITIONS. In AS 09.55.530 - 09.55.560,

6 (1) "health care provider" means an acupuncturist licensed under AS 08.06; an
7 audiologist licensed under AS 08.11; a chiropractor licensed under AS 08.20; a dental hygienist
8 licensed under AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68;
9 a dispensing optician licensed under AS 08.71; a naturopath licensed under AS 08.45; an
10 optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical therapist
11 or occupational therapist licensed under AS 08.84; a physician licensed under AS 08.64; a
12 podiatrist; a psychologist and a psychological associate licensed under AS 08.86; and a hospital
13 as defined in AS 18.20.130, including a governmentally owned or operated hospital; [A
14 CORPORATE ENTITY COVERED UNDER AS 21.88.050(b)(11);] and an employee of a health

1 care provider acting within the course and scope of employment;

2 (2) "board" means an arbitration board established under AS 09.55.535;

3 (3) "panel" means an expert advisory panel established under AS 09.55.536.

4 * Sec. 2. AS 18.23.070(3) is amended to read:

5 (3) "health care provider" means an acupuncturist licensed under AS 08.06; a
6 chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist
7 licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing optician licensed under
8 AS 08.71; an optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a
9 physical therapist or occupational therapist licensed under AS 08.84; a physician licensed under
10 AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under AS 08.86; and
11 a hospital as defined in AS 18.20.130, including a governmentally owned or operated hospital;
12 [A CORPORATE ENTITY COVERED UNDER AS 21.88.050(b)(1);] and an employee of a
13 health care provider acting within the course and scope of employment;

14 * Sec. 3. AS 21.39.155(a) is amended to read:

15 (a) The director may require carriers, except a reciprocal insurer formed by and
16 insuring only a group of municipalities or nonprofit public utilities under AS 21.75 or a
17 reciprocal insurer formed under AS 21.75 to provide marine insurance, or a joint
18 insurance arrangement formed under AS 21.76, as a condition of writing a line of
19 insurance dealing with medical malpractice or workers' compensation, to participate in
20 an assigned risk pool if the director finds that mandatory carrier participation is in the
21 public interest.

22 * Sec. 4. AS 21.78.050 is amended to read:

23 Sec. 21.78.050. GROUNDS FOR LIQUIDATION. The director may apply to the court
24 for an order appointing the director as receiver, if an appointment of the director as receiver is
25 not then in effect, and directing the director to liquidate the business of a domestic insurer or of
26 the United States branch of an alien insurer having trusteed assets in this state, regardless of
27 whether or not there has been a prior order directing the director to rehabilitate the insurer, upon
28 any of the grounds specified in AS 21.78.040, or if the insurer

29 (1) has ceased transacting business for a period of one year; or

30 (2) is an insolvent insurer and has commenced voluntary liquidation or
31 dissolution, or attempts to commence or prosecute an action or proceeding to liquidate its

1 business or affairs, or to dissolve its corporate charter, or to procure the appointment of a
2 receiver, trustee, custodian or sequestrator under any law except this title [; OR

3 (3) IS THE MEDICAL INDEMNITY CORPORATION OF ALASKA, AND THE
4 DIRECTOR HAS ORDERED TERMINATION OF THE BUSINESS OF THE CORPORATION
5 IN ACCORDANCE WITH AS 21.88.055].

6 * Sec. 5. AS 21.88.030 is repealed and reenacted to read:

7 Sec. 21.88.030. LIABILITY OF A GOVERNOR, OFFICER, OR EMPLOYEE. A
8 governor, officer, or employee or former governor, officer, or employee of the corporation is not
9 liable for civil damages or a criminal fine by reason of the person's act or omission as a
10 governor, officer, or employee of the corporation, or by reason of the act or omission of the
11 corporation, the board of governors, officers, or employees unless (1) the person acts with actual
12 knowledge that the person was acting outside the scope of the person's authority, (2) at the time
13 of the act or omission the person was acting or failing to act for a purpose which the person
14 knew was not in the best interests of the corporation, or (3) with respect to a criminal act, the
15 person had actual knowledge or should have known the person's act was unlawful. If a claim
16 or action is brought against a person entitled to the protection of this section, the claim or action
17 will be defended by the state, except that the person shall reimburse the state for the cost to the
18 state of the person's defense if the provisions of (1), (2), or (3) of this section apply to the
19 person.

20 * Sec. 6. AS 21.88.095 is repealed and reenacted to read:

21 Sec. 21.88.095. PREMIUM TAX OFFSET. If the company to which the assets and
22 liabilities of the corporation are transferred does not write premiums for two consecutive years
23 that total less than 35 percent of all premiums written in the state for physicians' medical
24 malpractice insurance or does not write premiums for one calendar year that total less than 20
25 percent of all premiums written in the state for physicians' medical malpractice insurance, the
26 company may carry forward and offset against the company's premium tax liability to the state
27 the amount by which the aggregate claims paid on reinsurance assumed under the transfer
28 exceeds aggregate reserves on the same business established at the date of the transfer of the
29 assets and liabilities of the corporation.

30 * Sec. 7. AS 21.88.900 is repealed and reenacted to read:

31 Sec. 21.88.900. DEFINITION. In this chapter, "corporation" means the Medical

1 Indemnity Corporation of Alaska.

2 * Sec. 8. AS 37.05.146 is amended to read:

3 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146
4 and AS 37.07.080 "program receipts" means fees, charges, income earned on assets, and other
5 state money received by a state agency in connection with the performance of its functions; all
6 program receipts except the following are general fund program receipts:

7 (1) federal receipts;

8 (2) University of Alaska receipts (AS 14.40.491);

9 (3) individual, foundation, or corporation gifts, grants, or bequests that by their
10 terms are restricted to a specific purpose;

11 (4) receipts of the following funds:

12 (A) highway working capital fund (AS 44.68.210);

13 (B) correctional industries fund (AS 33.32.020);

14 (C) loan funds;

15 (D) international airport revenue fund (AS 37.15.430);

16 (E) funds managed by the Alaska State Housing Authority (AS 18.55.020),
17 the Alaska Housing Finance Corporation (AS 18.56.020), [THE MEDICAL INDEMNITY
18 CORPORATION OF ALASKA (AS 21.88.020),] the Alaska Railroad Corporation
19 (AS 42.40.010), the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska
20 Industrial Development and Export Authority (AS 44.88.020);

21 (F) fish and game fund (AS 16.05.100);

22 (G) school fund (AS 43.50.140);

23 (H) training and building fund (AS 23.20.130);

24 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
25 former AS 39.37);

26 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);

27 (K) public school trust (AS 37.14.110);

28 (L) second injury fund (AS 23.30.040);

29 (M) fishermen's fund (AS 23.35.060);

30 (N) FICA administration fund (AS 39.30.050).

31 * Sec. 9. AS 21.88.010, 21.88.020, 21.88.040, 21.88.050, 21.88.055, 21.88.060, 21.88.070, 21.88.080,

1 21.88.090, and 21.88.210 are repealed.

2 * Sec. 10. This Act takes effect January 1, 1992.