

HB

52

# COMMITTEE REPORT

3/5/75

HOUSE

Mr. Speaker:

Date 4/21/75

The Committee on JUDICIARY has had HR 52

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMFNDMENT(S)

() recommends it BE REPLACED WITH CS FOR HR 52 AND THAT

CS FOR HR 52 DO PASS

( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

<u>Jerry Handman</u>	_____	_____
<u>Robert R. ...</u>	_____	_____
<u>A. E. Bradley</u>	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

Robert R. ... recommends: No RFE.

Sparks recommends: No rec.

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

Jerry Handman Chairman

Here is the report I told Jerry -  
you I had done - The  
back page includes some  
additional information gained  
from testimony in Commerce &  
Other States - Judy

HOUSE BILL 52

House Bill 52, an act entitled: "An act creating an office of the public adjustor; and providing for an effective date."

The purpose of HB 52 is to protect and assist the insurance claimant within the state of Alaska by providing for a Public Adjustor within the Division of Insurance, Department of Commerce.

A Public Adjustor as proposed in HB 52 acts as an ombudsman for members of the public needing help in the determination of the amount of claims or in the settlement of claims with insurers. The Public Adjustor would be of most benefit to the insurance claimant with a small claim.

Currently there is no public assistance for a person filing an insurance claim. If the claim is a large one, it is economically feasible to hire an attorney to negotiate with the insurance company or contest the settlement in court. In the case of the claimant with a small claim, in most cases it is not feasible to hire an attorney or take the company to court. The only recourse left to the claimant is to accept the settlement offered by the insurance company which is, in some cases, an amount far less than a fair settlement for the claim. The Director of the Division of Insurance stated that in some states insurance adjustors are brought in to assist the public in such matters.

An adjustor is one who investigates and reports to his employer concerning claims arising under insurance contracts. Their investigations are made on behalf of either the insurer or the insured, whichever employs them. There are three types of claims adjustors to help one when filing a claim. A company adjustor is an employee of the insurance company. An independent adjustor is employed by the insurance company as a private contractor, and is usually used when the company does not have its own company adjuster available. A public adjustor in some states is hired by the claimant and is paid by the claimant. Brokers and agents assist in claims also.

The Public Adjustor would be of assistance to the public not only in the settlement of claims but also in the determination of claims. Currently the only recourse a claimant has if there are problems with claims determination or settlement is to file a complaint with the Governor's office. A complaint received by the Governor's office is forwarded to the Commis-

sioner of Commerce who forwards it to the Director of the Division of Insurance. John O'Shea, the Director of the Division of Insurance stated that he and his staff handle one half of the complaints for the State while his Deputy in Anchorage handles the rest. I would question this system in that most people are unfamiliar with government and would not know where assistance was available to aid them in an insurance problem. I would also question the time involved in this procedure.

The Public Adjustor in accordance with HB 52 would be appointed by the Director fo the Division of Insurance. Once appointed this person would serve independently of the Division of Insurance. As it states in this bill the Public Adjustor can be removed for cause as determined by the Legislature by concurrence of a 2/3 vote. There may be problems here with the appointment by the Director of the Division and the removal of this person by the Legislature. As the Legislature's role is not to act as an administrator and this person must be in cooperation with the State administration, a better sclusion might be to have the Public Adjustor appointed by the Governor with confirmation by the Legislature. The Governor would then also be able to remove this appointee with concurrence of the Legislature. The term of the Public Adjustor as stated in the bill is four years. If the procedure of hiring and terminating is changed the term of service might also be investigated.

The Public Adjustor although independent of the Division of Insurance will be included under the Prohibited Interests Rewards section 21.06.040. This insures that the Public Adjustor has no conflict of interest in dealing with the public or insurers, as is easily understood in this amendment to the current law.

The direct responsibilities of this position, as stated before, are to assist the public in the determination of the amount of claims and aid in the settlement of claims. Through this assistance, the Public Adjustor will become familiar with the settlement practices of insurers and shall review their records on both settlement practices and claim payment records. During this process if it is discovered that an insurer is habitually uncooperative in settling claims, slow in making payments on claims, or engages in practices inconsistent with the purposes of this title, the Public Adjustor shall request the Director of Insurance to hold a hearing and if warranted suspend the license of an insurer not complying with the requirements of this title. This process reinforces the position of public ombudsman which the Adjustor will have in dealing with the insurance company.

House Bill 51 requests a special appropriation to the Department of Commerce, Division of Insurance to fund the office of the Public Adjustor. This act will take effect July 1, 1975

*bill has been amended concerning appointment/removal*

and requests the sum of \$75,000, appropriated from the general fund, for this purpose. In talking with Mr. Fink, prime sponsor of this bill, he stated that he felt a good insurance adjustor could be hired for \$25,000 yearly. This appropriation would allow for a small staff and funding for an information brochure.

The location of the office is not stated in the bill. The logical assumption would be that the office be located in Juneau. During the first year of business, while the public is becoming aware of this service, it seems more logical to place the office in Anchorage where the most people are and therefore the most claims. Although this is not an important facet of this legislation, there is currently a state insurance office located in Anchorage so the office of the Public Adjustor could be located in either Anchorage or Juneau.

Opinions of this bill are forthcoming from Mr. Roger Grummett, Legislative Representative for the State Association of Independent Agents. Mr. Grummett is attending a board meeting of this organization in Sitka this weekend and will report their opinions to us on Monday. Attached is an opinion from John George, the Risk Manager for the State. I spoke with John O'Shea present Director of the Division of Insurance. He spoke against HB 52 and cited reasons for his opposition. He was opposed to this bill because the office of the Public Adjustor was not in keeping with the administrative process of his office and it would only compound administrative problems. He felt the ombudsman as proposed by the Governor and Senator Kerttula could handle these problems. He did emphasize the special expertise needed for such a position and felt that the costs to provide this would be tremendously high. He felt that the funds expended for this position could be better utilized within his own department and that there would be better claim settlements if there was more funding in his department. He objected to the Public Adjustor being appointed by the Director and then only removed by the Legislature. Mr. O'Shea was basically very concerned over his position and the administration of his division.

Mr. O'Shea stated that he knew of no state that had a public adjustor. He stated some states hire adjustors on public license, who work similarly to our concept of a Public Adjustor, for a small fee. I learned that Pennsylvania has a system similar to this and am awaiting a response from them on how their system functions.

I have received information from the State of Washington concerning questions on who handles these responsibilities (meaning those delegated to the Public Adjustor in HB 52) within their state structure. The Washington Insurance Department has established a Comprehensive Consumer Division within the office of the Commissioner of Insurance. The Supervisor of

the Consumer Division is not independent of the Commissioner, but this system seems to be working. Attached are explanatory brochures on this system. The last page of the brochure explains to the reader how to file a complaint with the Commissioner. The State of Alaska Division of Insurance has no such literature on insurance and no way to inform the public on how and where to file a complaint. The State Consumer Protection Office refers insurance complaints to the Division of Insurance as do individual insurance agents.

As further information is gained in respect to this bill, it will be forwarded to your office.

STATE  
of ALASKA

## MEMORANDUM

TO: [ Honorable Bob Bradley  
Chairman, House Commerce Committee  
Alaska State Legislature

THRU: Andrew S. Warwick, Commissioner  
THRU: A.M. Saylor, Director *AMS*

FROM: John George  
Risk Manager *JG*  
Division of General Services & Supply  
Department of Administration

DATE : February 19, 1975

SUBJECT: HB 51 and HB 52  
Committee Hearing

At the request of Ms. Judy Whitney, comments on House Bills 51 and 52 for review by the House Commerce Committee are respectfully submitted.

The establishment of a public adjuster within the Department of Commerce will not have an effect on the State's Risk Management program. It is designed to protect the individual policyholder and claimant who lacks specific insurance expertise.

It is our opinion that the Department of Commerce, Division of Insurance, already provides a valuable service to the individual purchaser of insurance by investigating and regulating insurance companies and claims adjusters. Appointment of a public adjuster would unnecessarily overlap with work already carried out by the Division of Insurance. If there is a need for additional investigation and arbitration of claims settlement, it seems logical that the Division of Insurance should be expanded by one or more classified persons to handle this additional workload along with other regulatory duties.

To our knowledge, all persons requesting assistance from the Division of Insurance have received help. The number of these requests is relatively small and, in our opinion, does not justify either a full time, exempt position or an appropriation of \$75,000 at this time.

Alaska Independent  
Insurance Agents & Brokers, Inc.



SEND REPLY TO:

February 24, 1975

BRATTUCK & GRUMMETT, INC.  
301 SEWARD STREET  
SITKA, ALASKA 99801

The Ninth State Legislature

To Whom it May Concern:

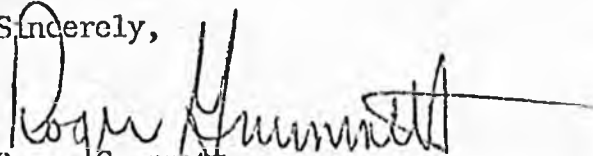
Re: HB 52 & HB 51

On behalf of the Board of Directors of the Alaska Independent Insurance Agents and Brokers, Inc., I would like to make the following statement regarding the Public Adjuster.

We are against your idea of a Public Adjuster. We feel that someone within the Department of Insurance should be designated to handle the consumer complaints. We also feel that the independence of this individual as proposed in HB 52 is far too strong for the position.

We, on the other hand, would like to see the Legislature pass on the \$75,000 which was earmarked for HB 51 to go to the Division of Insurance to fund the additional personnel needed to run that department.

Sincerely,

  
Roger Grummett  
Director and  
Chairman of Legislative Committee

RG: eh

## House Bill 52- Public Adjustor

House Bill 52 was amended in the Commerce Committee so that the Governor would appoint the Public Adjustor for a term of four years. He remains independent of the Director and Commissioner but may be removed for cause or by the Governor's request with concurrence of the Legislature. When removal is requested by the Governor the Public Adjustor remains in office until the legislature removes him.

Our Consumer Protection Agency is not equipped to handle insurance complaints currently and therefore refers them to the Division of Insurance. As I stated before the Director of the Division of Insurance and his secretary handle one half of the complaints for the state of Alaska, while his deputy in Anchorage handles the remainder. John ~~George~~ O'shea testified in the Commerce Committee that the Division of Insurance dealt with 125 complaints involving claims last year, recovering \$350,000 for the claimants. He of course wants more money to be invested in his division instead of the new position of Public Adjustor. John O'shea stated that if more money was invested in his operating budget he could advertise the services of the department. He felt the Public Adjustor created a duplication of services within his division.

This information below is merely to show how two other states aside from Washington have dealt with consumer problems concerning insurance.

### Pennsylvania

In December of 1971, the Insurance Commissioner appointed an ombudsman in the State Insurance Department. There was confusion over the responsibilities of this office and the position has not been filled since December of 1974.

In the 1975 session under House Bill 175, Printers No. 853, a consumer advocate would be created with reference to regulatory agencies including the Insurance Department. This bill passed the House March 20, 1975. Attached is a copy of a press release of the appointment of the ombudsman and a report on this position.

### California

California does not have a position similar to the Public Adjustor, but they do have a Policy Services Bureau, Division of Consumer Affairs in the Department of Insurance. This bureau consists of 22 Insurance Officers who receive complaints from the public and assist the complainants in the adjustment of their claims. If the evidence indicates that a company is as a matter of practice, violating certain of the Unfair Trade Practices set forth in the statutes, this information is used in the event it is determined that a hearing on the insurers's license is warranted.

75  
House Judiciary Committee  
April 14, 1975

#### HB 52 Public Adjustor

Mr. Bradner, sponsor of the bill, testified that the public presently does not complain about insurance problems because they do not know where to go. The bill would create an insurance ombudsman who would function within the Division of Insurance. He would remain independent and would have authority to pursue routine complaints and identify abusive companies. The Division does not favor an independent Adjustor but would like additional monies so that the Division could handle complaints. Mr. Bradner felt that because of the very existence of the Adjustor, many problems would never develop. A pamphlet advertising that the Adjustor will handle complaints is being provided for in another bill.

page 2, line 4, delete the word "ombudsman" and replace with "will assist" Mr. Parr moved the amendment which passed.

Mr. Brown moved on page 1, line 10 that "director" be changed to "governor". There being no objection, it was so ordered.

Ted Smith explained that an appointee of the governor working independently within a Division would have a difficult time. He suggested that the Adjustor be explicitly made a member of the partially exempt service. Mr. Brown moved that an addition to the bill to this effect be added. There being no objection, it was so ordered.

Mr. Brown moved that a CS be drawn up incorporating the above amendments. It was so ordered.

#### HB 385 Early Judicial appointment

The Judicial Council, which suggested the bill, submitted proposed language to take care of the problem of possible lame duck appointments. Mr. Brown moved that on page 1, line 22 and page 2, line 9 add "no more than sixty days early" be added. The amendment passed and Mr. Brown moved HB 385 am out of committee do pass. There being no objection, it was so ordered.