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Introduced: 3/4/82
Referred: Labor & Commerce

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 831

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to insurance policies and contracts."

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

8 * Section 1. AS 21.09.260 is amended to read:

9 Sec. 21.09.260. VIOLATIONS - PENALTIES. An insurer violating the
10 provisions of AS 21.09.250 [AS 21.09.220 - 21.09.250] is guilty of a
11 misdemeanor and upon conviction is punishable by a fine of not more than
12 \$500 for each violation. In the event of conviction the insurance
13 director may suspend or revoke the license of the insurer, but violation
14 shall not invalidate the insurance contract.

15 * Sec. 2. AS 21.09.220, 21.09.230, and 21.09.240 are repealed.

16 *SEE STATUTES BENEATH BILL;*

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

LEGISLATIVE POSITION PAPER
SB 831
March 15, 1982

The Department of Commerce and Economic Development favors SB 831 and urges passage of the bill.

SB 831 repeals the Alaska Countersignature Law which requires that an insurance policy issued for delivery in Alaska or covering a subject in Alaska be signed by a licensed resident Alaska agent. It further sets forth a level of remuneration to be received by the countersigning agent.

The law was originally intended as a protective device for Alaska producers, to give them an advantage over their non-resident counterparts. This type of law exists in about 40 states and agents associations in those states are asking for repeal because it has not worked as expected. Where it is applied as structured, it tends to impede the flow of business and implant an additional level of bureaucracy as to those policies affected. Some non-resident producers circumvent the law through the use of contracts with a resident, power of attorney, and facsimile signature. The law provides no protection for the insuring public.

A copy of the sections of law to be repealed is attached.

E.W. Eboch 3/15/82

Edward W. Eboch
Deputy Commissioner

SECTIONS TO BE REPEALED

Sec. 21.09.220. Counter signature by resident agent—Application of title. No company, association, reciprocal exchange, person or persons authorized to transact insurance or offer indemnity contracts in this state excepting reciprocal mutuals organized under the laws of this state and life insurance companies or life insurance contracts and health and accident contracts and annuity contracts written therein, may make, write, place or cause to be made, written or placed, a policy or contract of insurance or indemnity of any kind or character, or a general or floating policy covering risks on property located in the state, liability created by or accruing under the laws of this state, or undertakings to be performed in this state, except through their licensed resident insurance agents, who shall countersign all policies, riders and endorsements or indemnity contracts so issued and collect the premiums, or see to their collection in due course, and who shall keep a record of the same. The record shall contain the usual and customary information concerning the risk undertaken, including the full premium paid or to be paid, to the end that the state may receive the taxes required by law to be paid on premiums collected for insurance on property or undertakings located in this state. No agent shall pay or forward a premium or application for insurance or in any manner secure, help or aid in the placing of insurance, or effect a contract of insurance or indemnity upon property, liability or undertakings located in this state with an insurer which is not authorized to transact its business in this state; except that if two or more insurers issue a single policy of insurance, the policy may be countersigned on behalf of all insurers appearing on it by a licensed agent, resident of the state, or any one of the insurers. The practice of signing policies in blank is likewise prohibited. (§ 1 ch 120 SLA 1966)

Sec. 21.09.230. Exception. Nothing contained in § 220 of this chapter shall be construed as preventing the free and unlimited right to negotiate wholly outside this state contracts of insurance by licensed nonresident agents and brokers, provided the policies, dailies, endorsements or evidence of the contracts covering properties or insurable interests in this state are countersigned by the resident agent of this state, in which event the countersigning agent shall receive a commission of not less than five per cent of the premium paid; provided, however, that the countersigning commission may not

exceed one-half of the total commission and provided further that for countersigning these insurance policies the resident agent shall not be paid more than \$50 nor less than \$1 for countersigning a policy or bond; and provided further, that if the licensed nonresident agent or broker or the insurer assuming the risk desires the resident agent to render additional services during the life of a policy the compensation to be paid to the countersigning agent shall be a matter of contract between the parties in interest. Sections 220—250 of this chapter do not apply to the following contracts:

(1) policies covering property received for shipment or delivery or in transit while in possession or custody of a common carrier, or the rolling stock, vessels, aircraft, or other property of a common carrier used and employed by it in interstate or foreign commerce, or insurance of aircraft owned or operated by manufacturers of aircraft;

(2) policies issued by insurers not using agents in the general solicitation of business;

(3) contracts of reinsurance or retrocessions made by and for admitted companies;

(4) contracts of life and disability insurance and annuity contracts;

(5) contracts of title insurance;

(6) bid bonds issued in connection with a public or private contract;

(7) wet marine and transportation insurances. (§ 1 ch 120 SLA 1966)

Sec. 21.09.240. Affidavit attached to annual statement. At the time the annual statement of every such company is filed with the director there shall be attached to it an affidavit of the president, manager or chief executive officer in the United States stating that §§ 220—250 of this chapter have not been violated. (§ 1 ch 120 SLA 1966)

(c) A domestic company is exempt from taxation under this section for a period of five years from the date of its organization.

(d) An authorized insurer shall, with respect to all wet marine and transportation contracts written in this state during the preceding calendar year, before April 1 of each year, pay to the director a tax of three-quarters of one per cent on its gross underwriting profit. The gross underwriting profit is computed by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance), on wet marine and transportation insurance contracts, the net losses paid (i.e., gross losses paid, less salvage and recoveries on reinsurance ceded) during the calendar year under the contracts. In the case of an insurer issuing participating contracts, the gross underwriting profit shall not include, for computation of the tax prescribed by this section, the amounts refunded or paid as participation dividends by the insurers to the holders of the contracts.

(e) Payment to the director by an insurer of the tax upon its premiums required by this section shall be in lieu of all other taxes imposed by the state upon premiums, franchise, privilege or other taxes measured by income of the insurer commencing with the taxable year beginning January 1, 1967.

(f) The state hereby pre-empts the field of imposing excise, privilege, franchise, income, license, permit, registration, and similar taxes, licenses, and fees upon insurers and their general agents, agents and representatives as such; and on the intangible property of insurers or agents; and all political subdivisions of agencies in the state, including home rule boroughs or cities, are prohibited from imposing or levying upon insurers, or upon their general agents, agents and representatives as such, any tax, license, or fee. Provided that this subsection shall not be construed as prohibiting the imposition by political subdivisions of taxes upon real and tangible personal property of insurers and their general agents, agents and representatives.

(g) The director may suspend or revoke the certificate of authority of an insurer which fails to pay its taxes as required under this section.

(h) The provisions of this section do not apply to title insurance companies. A premium tax on title insurance companies shall be levied in accordance with the provisions of AS 21.66.110. (§ 1 ch 120 SLA 1966)

REPEALED → Sec. 21.09.220. Counter signature by resident agent—Application of title. No company, association, reciprocal exchange, person or persons authorized to transact insurance or offer indemnity contracts in this state excepting reciprocal mutuals organized under the laws of this state and life insurance companies or life in-

insurance contracts and health and accident contracts and annuity contracts written therein, may make, write, place or cause to be made, written or placed, a policy or contract of insurance or indemnity of any kind or character, or a general or floating policy covering risks on property located in the state, liability created by or accruing under the laws of this state, or undertakings to be performed in this state, except through their licensed resident insurance agents, who shall countersign all policies, riders and endorsements or indemnity contracts so issued and collect the premiums, or see to their collection in due course, and who shall keep a record of the same. The record shall contain the usual and customary information concerning the risk undertaken, including the full premium paid or to be paid, to the end that the state may receive the taxes required by law to be paid on premiums collected for insurance on property or undertakings located in this state. No agent shall pay or forward a premium or application for insurance or in any manner secure, help or aid in the placing of insurance, or effect a contract of insurance or indemnity upon property, liability or undertakings located in this state with an insurer which is not authorized to transact its business in this state; except that if two or more insurers issue a single policy of insurance, the policy may be countersigned on behalf of all insurers appearing on it by a licensed agent, resident of the state, or any one of the insurers. The practice of signing policies in blank is likewise prohibited. (§ 1 ch 120 SLA 1966)

REPEALED →

Sec. 21.09.230. Exception. Nothing contained in § 220 of this chapter shall be construed as preventing the free and unlimited right to negotiate wholly outside this state contracts of insurance by licensed nonresident agents and brokers, provided the policies, dailies, endorsements or evidence of the contracts covering properties or insurable interests in this state are countersigned by the resident agent of this state, in which event the countersigning agent shall receive a commission of not less than five per cent of the premium paid; provided, however, that the countersigning commission may not exceed one-half of the total commission and provided further that for countersigning these insurance policies the resident agent shall not be paid more than \$50 nor less than \$1 for countersigning a policy or bond; and provided further, that if the licensed nonresident agent or broker or the insurer assuming the risk desires the resident agent to render additional services during the life of a policy the compensation to be paid to the countersigning agent shall be a matter of contract between the parties in interest. Sections 220—250 of this chapter do not apply to the following contracts:

- (1) policies covering property received for shipment or delivery, or in transit while in possession or custody of a common carrier,

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or the rolling stock, vessels, aircraft, or other property of a common carrier used and employed by it in interstate or foreign commerce, or insurance of aircraft owned or operated by manufacturers of aircraft;

(2) policies issued by insurers not using agents in the general solicitation of business;

(3) contracts of reinsurance or retrocessions made by and for admitted companies;

(4) contracts of life and disability insurance and annuity contracts;

(5) contracts of title insurance;

(6) bid bonds issued in connection with a public or private contract;

(7) wet marine and transportation insurances. (§ 1 ch 120 SLA 1966)

REPEALED → Sec. 21.09.240. Affidavit attached to annual statement. At the time the annual statement of every such company is filed with the director there shall be attached to it an affidavit of the president, manager or chief executive officer in the United States stating that §§ 220—250 of this chapter have not been violated. (§ 1 ch 120 SLA 1966)

Sec. 21.09.250. Unlawful acts defined. It is unlawful for an insurer doing business in this state to make, write, place or cause to be made, written or placed in this state a policy, duplicate policy or contract of insurance of any kind or character, or general or floating policy upon persons or property resident, situated or located in this state, from or through a broker, agent, surplus line broker or person who has not secured a license in this state. No insurer may pay a commission or any form of remuneration to a person, firm or organization for the writing or placing of insurance coverage in this state unless that person, firm or organization holds a license issued by the director or his successor. (§ 1 ch 120 SLA 1966)

Sec. 21.09.260. Violations—Penalties. An insurer violating the provisions of §§ 220—250 of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine not more than \$500 for each violation. In the event of conviction the insurance director may suspend or revoke the license of the insurer, but violation shall not invalidate the insurance contract. (§ 1 ch 120 SLA 1966)

Sec. 21.09.270. Retaliation. (a) If, under the laws of another state or foreign country, taxes, licenses and other fees, in the aggregate, and fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be im-

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 831

Title An act relating to Insurance Policies and Contracts

Requested by Labor and Commerce Committee Date 3/4/82

II. FISCAL DETAIL

Agency Affected Division of Insurance

Program Category Affected Public Protection

BRU, Program, Or Subprogram(s) Affected Division Insurance

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Source)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE March 15, 1982

PREPARED BY Kenneth C. Moore, Div. of Insurance
Commerce & Economic Development

Original: Legislative Finance

PHONE 465-2515

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)