

HB

505

MARCH 28, 1984

TO: JOHN

FROM: KEN

RE: HB 505 "RELATING TO INSURANCE"

THE PURPOSE OF HB 505 IS TO UPDATE THE PENALTY PROVISIONS IN THE INSURANCE CODE IN TITLE 21 OF THE ALASKA STATUTES. UNDER CURRENT LAW, MANY OF THE VIOLATIONS OF THE INSURANCE CODE HAVE CRIMINAL PENALTIES, SUBJECT TO PROSECUTION AS A MISDEMEANOR. THIS LEGISLATION WOULD CREATE CIVIL PENALTIES FOR CERTAIN VIOLATIONS OF THE INSURANCE CODE. ACCORDING TO THE DIVISION OF INSURANCE THIS WOULD PREVENT MANY OF THE ADMINISTRATION VIOLATIONS OF THE INSURANCE CODE WHICH MANY INSURANCE COMPANIES NOW TAKE LIGHTLY.

QUESTIONS:

1. HOW MANY VIOLATIONS DO YOU ESTIMATE OCCUR EACH YEAR THAT ARE NEVER PROSECUTED ?
2. COULD YOU ESTIMATE THE ADDED EXPENSE TO THE DIVISION BECAUSE OF THESE VIOLATIONS ?
3. WHY IS THERE SUCH A STRONG EFFORT NOW TO CURB THESE VIOLATIONS OF THE CODE ?

4. ON PAGE 2, LINE 11, HOW WAS THE FIGURE 2,500 DECIDED ?

5. ON PAGE 2, LINE 25, 25 THOUSAND DOLLARS IS A CONSIDER-
ABLE AMOUNT OF MONEY TO BE FINED BY THE DIRECTOR OF THE
DIVISION OF INSURANCE FOR A CIVIL PENALTY. SHOULDN'T
CRIMES SUCH AS EMBEZZLEMENT BE PUNISHED UNDER THE CRIMI-
NAL STATUTES ?

This proposal, while lengthy, is a relatively straightforward cleanup and update of the penalty provisions in the insurance code. The first function of this bill is to consolidate the criminal penalties of the insurance code in a single section, Sec.21.36.360. There are no NEW criminal penalties created, but there are some upgrades. Currently, any violation of Title 21 (the insurance code), is a misdemeanor unless otherwise specifically labeled.

The second function of this bill is to establish an administrative penalty for any violation of the insurance code. In many cases there is no administrative or civil penalty for a violation of the code. This means that the violator gets away with the act, since a district attorney is going to be less than enamored with prosecuting as a misdemeanor some of the technical violations we see in the administration of the code. This bill sets up a dual course, where an administrative remedy and a criminal remedy will be available for any violation of the code. This is accomplished by changing all the present criminal language to civil penalty language. In doing this, the penalty levels, which have not been changed since 1966, have been reviewed and upgraded.

The third element of this bill deals with a growing concern amongst insurance regulators concerning information sought during investigations of criminal activities. In recent months a number of fraud investigations have commenced in the west, some in which our division is participating. The challenge we currently face is that there is no immunity available for persons sharing or providing information. This fact has impeded a number of investigations across the country. In some cases other insurance regulators are willing to act as our agent in securing information but have no protection if they do so. Presently two states have adopted legislation that deals with this issue. We have used a model that tracks a National Association of Insurance Commissioners model.

Section 1. Page 1, lines 9-16.

This is a new civil penalty section that fines an insurer who fails to submit its annual financial statement when due. It also gives the director the authority to suspend the activities of an insurer who fails to submit the statement when due. The concern here is that the statement is the director's principal tool in determining the financial health of an insurer and its absence leaves that health in question.

Section 2. Page 1, lines 17-25.

This section establishes a new civil penalty. The section deals with violations of AS 21.09.220-250, which is the section on the countersignature law which is in the process of repeal, and with writing through unlicensed agents. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(i)].

Section 3. Page 1, lines 26-29 & page 2, lines 1-7.

This section establishes a new civil penalty. AS 21.22 is the insurance

holding company act which is concerned with the acquisition of, control of, or, merger with a domestic insurance company. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(h)].

Section 4. Page 2, lines 8-12.

This section establishes a new civil penalty. AS 21.27 is the insurance agents, brokers, solicitors, and adjusters licensing act. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(j)].

Section 5. Page 2, lines 13-19.

This section establishes a new civil penalty. It deals with reporting of premiums to an insurer by a licensee. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(n)].

Section 6. Page 2, lines 20-27.

This section establishes a new civil penalty. is concerned with the monies a licensee receives as premium from an insured or as return premium from an insurer. These are trust funds and their misuse or misappropriation is a matter of particular concern to the division. The current criminal provision is transferred to Section 10 [see Sec. 21.36.360(b)(5)].

Section 7. Page 2, lines 28-29 & page 3, lines 1-11.

This section deals with the penalties for violation of the licensing law. The principal change here is an upgrading of the amount of penalty.

Section 8. Page 3, lines 12-21.

This section upgrades the fine applied in lieu of suspension, revocation, of refusal to renew a license from \$500 to \$2500.

Section 9. Page 3, lines 22-29 & page 4, lines 1-2.

This section establishes a new civil penalty. It deals with persons refusing examination by the director of their activities in the surplus lines market. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(l)].

Section 10. Page 4, lines 3-29, all of pages 5-9 & page 10, lines 1-14. This section centralizes the criminal provisions of the insurance code. The chapter into which this has been inserted is the trade practices and frauds chapter, a logical place to look for these provisions. The new section also deals with investigation information confidentiality and immunity.

Sec 21.36.360(a). Page 4, lines 3-9.

This subsection prohibits fraudulent and criminal acts and provides that the criminal penalties are in addition to civil penalties. We have made a distinction between fraudulent and criminal because of the connotation

associated with the term "fraudulent". The word as used in this section generally means to intentionally injure, defraud, or deceive.

Sec 21.36.360(b)(1). Page 4, lines 10-15.

This section is drawn from the current AS 21.36.180(a), which is repealed in Section 22. No substantive change.

Sec 21.36.360(b)(2)-(3). Page 4, lines 16-24.

These sections are drawn from the current AS 21.36.200, which is repealed in Section 22. No substantive change.

Sec 21.36.360(b)(4). Page 4, lines 25-29 & page 5, lines 1-2.

This section is drawn from the current AS 21.36.180(b), which is repealed in Section 22. No substantive change.

Sec 21.36.360(b)(5). Page 5, lines 3-5.

This section is drawn from the current AS 21.27.360(c) which is amended in Section 6. No substantive change.

Sec 21.36.360(b)(6). Page 5, lines 6-7.

This section effectively upgrades the criminal offense of failing to pay a tax liability under this title, depending on the amount the person has failed to pay. It is currently a misdemeanor under the general penalty section of the insurance code, AS 21.90.020.

Sec 21.36.360(c). Page 5, lines 8-16.

This section is drawn from the current AS 21.69.060 which is amended in Section 14. It deals with solicitation to form an insurer without a solicitation permit. No substantive change.

Sec 21.36.360(d)-(e). Page 5, lines 17-27.

These sections are drawn from the current AS 21.06.170(e) which is repealed in Section 22, and deals with perjury in an examination, investigation or hearing of the division. No substantive change.

Sec 21.36.360(f). Page 5, lines 28-29 & page 6, lines 1-3

This section is drawn from the current AS 21.69.210 and deals with false accounts, documents, or advertisements in forming an insurer. See Section 15. No substantive change.

Sec 21.36.360(g). Page 6, lines 4-7.

This section is drawn from the current AS 21.69.390 and deals with the removal or concealment of records of a domestic insurer. See Section 16. No substantive change.

Sec 21.36.360(h). Page 6, lines 8-9.

This section is drawn from the current AS 21.22.170 and deals with insurance holding companies. See Section 3. No substantive change.

Sec 21.36.360(i). Page 6, lines 10-21.

This section is drawn from the current AS 21.09.250-260 and deals with the writing of business by insurance companies through persons not licensed by this state. See Section 2. No substantive change.

Sec 21.36.360(j). Page 6, lines 22-29 & page 7, lines 1-5.

This section is drawn from the current AS 21.27.010(d), AS 21.66.160, and AS 21.84.420(a) and deals with agents, brokers, solicitors, and adjusters licensing. See Sections 4, 12, and 18. No substantive change.

Sec 21.36.360(k). Page 7, lines 6-14.

This section is drawn from the current AS 21.27.370 in the licensing chapter which requires all parties to the insurance transaction have the appropriate license. The penalty is drawn from the general penalty section, AS 21.90.020. No substantive change.

Sec 21.36.360(l). Page 7, lines 15-19.

This section is drawn from the current AS 21.33.320 dealing with examination of surplus lines transactions. See Section 9. No substantive change.

Sec 21.36.360(m). Page 7, lines 20-23.

This section is drawn from the current AS 21.69.510(a) dealing with unauthorized dividends of a domestic insurer. See Section 17. No substantive change.

Sec 21.36.360(n). Page 7, lines 24-28.

This section is drawn from the current AS 21.27.360 dealing with agents and brokers trust accounts. See Section 5. No substantive change.

Sec 21.36.360(o). Page 7, line 29 & page 8, lines 1-3.

This section is drawn from the current AS 21.36.200 which is repealed in Section 21. It deals with false applications for insurance. No substantive change.

Sec 21.36.360(p). Page 8, lines 4-5.

This section is drawn from the current AS 21.90.020, the general penalty section of the insurance code. See Section 20. No substantive change.

Sec 21.36.360(q). Page 8, lines 6-20.

This subsection establishes the level of criminal violation in each of

the activities described in the section. i.e., whether it is a class B felony, class C felony, class A misdemeanor, or a class B misdemeanor.

Sec 21.36.370. Page 8, lines 21-29 & page 9, line 1.

This section is drawn from the current AS 21.36.180(b) which is repealed in Section 22. No substantive change.

Sec 21.36.380. Page 9, lines 2-8.

This is a new provision which requires that claims forms contain a warning that falsification is a felony.

Sec 21.36.390. Page 9, lines 9-19.

This is a new requirement requiring insurers to advise the director when they have knowledge of a fraudulent claim. It also provides immunity from civil liability for persons providing such information without malice.

Sec 21.36.400. Page 9, lines 20-29 & page 10, lines 1-5.

This is a new section. It provides confidentiality for data received under Sec.21.36.390. Presently investigations are considered examination of the insurer and are confidential while necessary, but this is not true when an insurer is not involved thus impeding investigation.

Sec 21.36.410. Page 10, lines 6-13.

This is an important new provision that enables the director to effectively share investigative functions with other states. It allows the director to designate another state to act on his behalf and vice-versa. The information would be in the participating state as well as the principle state. This would be a valuable tool in investigating violations of the insurance code by non residents. Further, the sharing of the data will better enable us to head off problems before they are sufficiently entrenched and cause loss to the insureds in this state and the insurer.

Section 11. Page 10, lines 14-25.

This section upgrades the rate law penalty provisions to make them more meaningful. Presently the gain from a violation of that law may well exceed the loss from a penalty application. With this new provision, that would no longer be the case.

Section 12. Page 10, lines 26-29 & page 11, lines 1-7.

This section establishes a new civil penalty. It deals with doing a title insurance business without an effective certificate of authority. The current criminal provision is transferred to Section 10 [see Sec. 21.36.360(j)].

Section 13. Page 11, lines 8-21.

This section substantially upgrades the title insurance rate law

penalties. The gain from writing a title insurance policy at an inappropriate rate is far more profound than in a property/casualty situation. It is also more likely to occur.

Section 14. Page 11, lines 22-26.

This section establishes a new civil penalty. AS 21.69 deals with the organization and corporate procedures of domestic insurers. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(c)].

Section 15. Page 11, lines 27-29 & page 12, lines 1-6.

This section establishes a new civil penalty. This section deals with deliberate falsification of company records. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(f)].

Section 16. Page 12, lines 7-17.

This section establishes a new civil penalty. This section deals with the removal or concealment of the records of a domestic insurer. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(g)].

Section 17. Page 12, lines 18-26.

This section establishes a new civil penalty. It deals with the unauthorized payment of dividends. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(m)].

Section 18. Page 12, lines 27-29 & page 13 lines 1-5.

This section establishes a new civil penalty. It deals with the unlicensed agent of a fraternal benefit society. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(j)].

Section 19. Page 13, lines 6-18.

This section establishes a new civil penalty. It deals with misrepresentations under the fraternal benefit society chapter. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(p)].

Section 20. Page 13, lines 19-29 & page 14, lines 1-7.

This section is needed in view of the transfer of the criminal penalty in Section 19. AS 21.84 is an exclusive chapter that incorporates the other provisions of AS 21 only by specific reference within that chapter. No substantive change.

Section 21. Page 14, lines 8-17.

This section establishes a new general civil penalty for violations of the insurance code not specifically carrying a stated civil penalty. The current criminal general penalty is transferred to Section 10 [see Sec. 21.36.360(p)]. The effect of this change is to have a civil penalty and a criminal penalty for any violation of the insurance code. This fact will



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division of insurance newsletter

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LET THE SURPLUS LINES BROKER BEWARE

"A surplus lines broker shall ascertain the financial condition of an insurer before placing insurance with him. A violation of this section is punishable by a fine of not less than \$50 or more than \$250 for each offense. The department shall also revoke his license and may not license him as a surplus lines broker for a period of two years thereafter."

Surplus lines brokers who fail to ascertain the financial condition of insurers as required by AS 21.33-.180, run the risk of losing their license, as well as being liable for losses if an insurer proves to be insolvent. During the past year, we have followed up on numerous consumer complaints where policy security runs from poor to insolvent. Some of these policies fail to name the actual insurers as required by law. Instead, we see coverage backed by "Lloyds and foreign companies." The foreign companies are domiciled in Bermuda, Cayman Islands, Africa and Hong Kong. In many cases, it is more correct to say they were domiciled in these countries but have since gone broke, leaving policyholders little option but to recover from the surplus line broker. The Division of Insurance urges every licensee to know his/her markets. Agents and brokers must ascertain the quality of markets utilized by a surplus lines broker when they farm out coverage to a surplus lines wholesaler.

The responsibility to determine the financial condition of an insurer cannot be delegated. The surplus lines broker carries a heavy responsibility when dealing with the unauthorized market and will be held responsible for his conduct.

RURAL HEALTH CARE

Bethel Family Health Services, Inc. (BFHS), a rural, private health care provider, recently entered into an agreement with the Indian Health Service (IHS). This agreement is unique and the first of its kind in the entire United States.

This agreement makes available acute in-patient care, emergency room services, laboratory services, and radiology services to the population of the Bethel area, who are not IHS beneficiaries. Bethel is a rural village not connected by any road or rail system to a major population center. In fact, Bethel is approximately 475 air-miles from Anchorage, the nearest population center.

In effect, BFHS can be viewed as a "retailer" of health care services that purchases some services from the "wholesaler," IHS - a "hospital within a hospital."

Any licensed physician or mid-level practitioner employed by BFHS that meets the credential requirements of IHS may be granted hospital privileges. In fact, this is what is anticipated in the agreement. BFHS medical staff will be treating their own patients but in the IHS facility.

IHS has established a fee schedule for those services contracted by BFHS. IHS intends to modify this fee schedule annually each October 1 to reflect changes in the actual costs incurred based upon the Medicare methodology. BFHS is financially responsible for all charges incurred on behalf of its own patients. BFHS will be billed directly by IHS and, in turn, will bill their patients. However, BFHS must pay IHS directly and must collect from their patients.

1983 INSURANCE COMPANY ANNUAL STATEMENTS AND PREMIUM TAX

The Alaska premium tax statements were mailed to all insurance companies doing business in Alaska during the week of November 14. The annual reports are due in Juneau on or before March 2, 1984. Premium tax payments must be received in the Division of Insurance before April 1. A postage mailing date stamp will not be accepted in lieu of actual receipt.

The 1983 INSURANCE REPORT is now available from the Division of Insurance for \$10.00 per copy. Please send checks in advance with order. Make them payable to the Director of Insurance and/ or the Division of Insurance.

SHOW CAUSE ORDERS

83-10: World Underwriters/Richard Buestad

The division negotiated with Corroon Black/Dawson (50% owner of World Underwriters Northwest) a stipulated agreement signed by Richard Buestad (50% owner of World Underwriters Northwest) whereby World Underwriters Northwest agreed to pay a \$50,000 fine, \$25,000 suspended, and \$2,500 to help defray investigative costs. In addition, World Underwriters Northwest agreed to withdraw their request for renewal of their nonresident surplus line broker license and not reapply for any license for two years. The basis for the penalties was the allegation that World Underwriters Northwest transacted business with admitted companies while not properly licensed, altered policies, issued fraudulent endorsements, charged premiums in excess of those reported to the companies and failed to maintain a proper trust account.

83-11: Corroon and Black/Dawson and Company, Inc., Withdrawn without prejudice.

83-12: Rollins Burdick Hunter of Washington entered into a stipulated agreement with the division whereby they agreed to several points, including that they would pay \$2,500 to help defray investigative costs and forfeit to the division \$7,500, a sum equivalent to the commissions received by Rollins Burdick Hunter of Washington on premium charges based on rates not filed with the division. The agreement

was based on the division's contention that Rollins Burdick Hunter knew or should have known that certain policy dailies and endorsements received from an intermediary and given to the insured were not identical with those authorized by the company.

83-13: Alexander and Alexander. Hearing postponed indefinitely.

83-14: Baccala and Shoop entered into a stipulated agreement whereby they agreed to pay a \$50,000 fine with \$25,000 suspended, provided no violations occur between November 1, 1983 and December 31, 1984. All of Baccala and Shoop's licenses were suspended until December 31, 1984. Such suspension is stayed provided no violations occur between November 1, 1983 and December 31, 1984. The basis for the penalties was the allegation that Baccala and Shoop had acted as a general agent in Alaska without a license, transacted admitted business with improperly or unlicensed individuals and allowed an intermediary to alter policies and to charge premiums in excess of the premium reported to the company.

83-16: Alaska National Insurance Company. Fine levied for dealing with improperly licensed persons.

83-17: John Anderson. Hearing pending.

83-18: Rosemurgy and Company fined \$5,000 for an unlicensed trainee adjuster adjusting claims. They are further prohibited from using trainee adjusters for a period of five years.

83-19: F. B. Beattie and Company, Inc. has entered into a stipulated agreement and agreed to pay a \$4,000 penalty to the division for acting as a broker without a proper license and provide a list of all business conducted with admitted companies in the past two years. The division has agreed to issue F. B. Beattie and Company, Inc., a broker's license.

83-20: Frontier Underwriters, Inc., has entered into a stipulated agreement and agreed to pay a \$4,500 penalty to the division for acting as a broker without a proper license. The division has agreed to issue Frontier Underwriters a broker's license.

CEASE AND DESIST ORDERS

- * 83-12: Automobile Warranty Corporation was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-13: Everett Sports Cars was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- 83-14: Gold Rush Auto Sales was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-15: Universal Dealer Services, Inc., was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-16: Stephen J. Way International was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-17: Frontier Underwriters, Inc., was ordered to cease and desist from dealing with admitted insurance companies in the State of Alaska.
- * 83-18: Swett and Crawford (Seattle) was ordered to cease and desist from dealing with admitted insurance companies in the State of Alaska.
- * 83-19: F. B. Beattie and Company, Inc. was ordered to cease and desist from dealing with admitted insurance companies in the State of Alaska.
- * 83-20: Don Sherwood was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-21: Loveless and Company, Inc., was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-22: Seligman and Seligman was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-23: Corroon and Black/Carter and Higgins was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-24: Cordell Excess and Surplus Lines was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-25: Professional Reinsurance Office, Inc., was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-26: Swett and Crawford (Dallas) was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-27: Stewart Smith Mid-America, Inc., was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-28: PENCO was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-29: The Nelson Company was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-30: GBS Insurance Agency was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- 83-31: Alaska Commercial and Marine Insurance Brokerage, Inc./Martin Horn was ordered to cease and desist from acting as surplus lines brokers without a license. Martin Horn was ordered to cease and desist from acting as a broker on Alaska commercial license until qualifies to do so.
- * 83-32: Miro and Associates was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.
- * 83-33: Bruce C. Davis was ordered to cease and desist from acting as a broker and dealing with admitted companies in the State of Alaska.
- * 83-34: international Rental Insurance Services, Inc., was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.



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division of insurance newsletter

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* DIRECTOR'S COMMENTS

by Kenneth C. Moore

"Change" is a word you hear with increasing frequency. With each change new problems arise. As a regulator of the business of insurance my major concern is Solvency of Insurance Companies.

Insolvencies are occurring with increasing frequency. These events are happening to both life and property and casualty companies. The citizens of Alaska deserve nothing less than the very best. As a producer agent-broker you owe this high degree of responsibility to each member of the buying public. If you have any questions there are some simple steps that can be taken. A few of them are:

1. Check the "Best's" rating. If you do not have a current guide, call the division's office in Anchorage or Juneau.
2. Twice a year we publish a "White List" of companies which meet our unofficial guide for surplus lines companies. Please understand that our publishing of the list is no guarantee of solvency. It simply means that we have made some checks as to capital and surplus. We also follow various guides as to policy service, promptness of payments and a host of other informative information, including trust deposits. We do not deny that there is some subjectivity in the formation of this list. Without the freedom of that choice I would immediately eliminate its publication.
3. Sharing information between us is important. Many of you rub shoulders on the same street with persons who have information. Likewise, I will share with you if you will only ask.

Let's keep our market clean.

* PROTECT OUR FISHING FLEET

by John George

Fishing is a major component of the economy of Alaska. Likewise, fishermen are extremely reliant upon insurance for protection of their property and defense of potential liability. Recent events have caused the fishing industry to have some misgivings concerning the integrity of the insurance industry.

The Division of Insurance has revoked licenses of those who may have been a part of this confusion. We found instances of subscription policies which failed to name the security. The division also found policies listing a company actually being written in a different company.

Investigation revealed at hearings that companies were being used whose financial background was suspect. Consequently, we have vessel owners who have hull losses, P and I claims and return premiums unpaid.

It is the duty of the broker and surplus lines broker to determine the substance of the security. No licensee is privileged to pass the blame on to some other wholesale source.

Due to situations described above, many lenders have adopted the director's "White List" as the standard for acceptance of surplus lines companies on mortgaged vessels. Cut rate prices set by the use of unreliable security have become the standard by which all legitimate quotes are compared. Unpaid claims reflect on all insurance companies.

Fishermen contacted by the division have indicated that they do not understand marine insurance and are very dissatisfied with the handling of all marine claims. In order to gain the confidence of fishermen the insurance industry will need to fully explain the options, differences between admitted and surplus companies and the procedures for collecting a loss from insurers.

NONADMITTED CARRIERS by Dorothy Devinney

A broker selling insurance coverage in nonadmitted carriers should be aware of the consequences to his client and himself should the company not pay a claim due to poor claims practices or insolvency.

Every nonadmitted policy in Alaska is required to have the following wording on it:

"This contract is registered as a surplus line coverage under the insurance law of Alaska."

In addition to the wording required under AS 21.33-.120, Bulletin 81-4 (Amendment) requires the following wording affixed to the face of the policy:

"THIS POLICY OF INSURANCE IS NOT COVERED BY THE ALASKA INSURANCE GUARANTY ASSOCIATION ACT."

This lettering must be in red and at least 3/16" high.

The meaning of the above wording should be explained to every insured.

Explanations

It means that the benefits of the State insolvency law do not apply. It means that the insurance director does not have a control over the company, nor can be of any service in claims or have any control over the company's assets.

It also could mean that the broker providing the policy could be held liable for an insolvency, even if the risk is reinsured in a solvent admitted or non-admitted company.

The benefits of the reinsurance do not flow to the insured, but rather to the receiver of the insolvent ceding company for the benefit of "all" insureds, unless there is a cut-through endorsement.

Every broker should take extra precautions when dealing with a nonadmitted insurer and when covering property outside the State or in dealing with a foreign insurer.

MARKET SURVEILLANCE by Norm Cheney

Recently, the division has become aware of many illegal activities taking place in the marketplace. These activities range from companies paying commission to unlicensed brokers all the way up to fraud. Many of the activities appear to be the result of intense competition for business in the commercial arena. While the division welcomes and encourages healthy competition in all areas of the insurance market, we would urge all members of the industry to confine their competitive efforts within the legal and moral framework upon which an industry based on trust must rely.

All admitted companies are urged to review their procedures to verify that all agents, brokers and general agents they do business with are properly licensed and that the rates being charged are filed with and approved by this division. Those utilizing schedule rating plans should review Bulletin 82-9 to make sure they are in compliance. When conducting field audits have the auditor look beyond the numbers; quite often irregularities can be picked up through the correspondence in the file. This tactic was instrumental recently in aiding the division in the identification of apparently illegal overcharges totalling almost \$78,000.

While the vast majority of agents and brokers licensed in Alaska conduct their business in an ethical manner, there are few that do not choose to follow the rules. These are not the type of representatives the insurance industry needs in Alaska. The division encourages your cooperating in helping to ferret out those undesirable elements for the betterment of the industry as a whole.

Thirteen Alaskan insureds have received refunds and credits totalling \$77,995 as a result of an investigation conducted by the Division of Insurance. The cash refunds were \$61,443 plus \$3,210 interest, in addition one insured received a \$13,342 credit on an existing policy. The refunds ranged from a low of \$103 to a high of \$22,953. The division's three-

month investigation uncovered evidence that the 13 insureds had been overcharged for insurance through the use of allegedly altered policy dailies and forged endorsements. In most cases, it appeared that the producing brokers were unaware of any illegal premium manipulation. The insurance companies whose policies were altered are Twin City Fire, American Centennial and Old Republic. They, while innocent of any direct involvement in the scheme, agreed to pay to the insureds through their general agent Baccala and Shoop Insurance Services the overcharges plus interest from the date of the overcharge and will be reimbursing the division for investigative expenses. Their cooperation in this matter has been appreciated.

The investigation is continuing and the division expects to issue at least four show cause orders on this matter in July.

BULLETIN 83-5

TO: ALL AGENCIES AND COMPANIES

RE: QUALIFYING TESTS AND EXAMINATION PROCEDURES FOR PRODUCERS

Due to previous problems encountered in the past, new guidelines have been established to permit more efficient and equitable testing procedures, ultimately benefiting all applicants for licensure. These procedures are primarily applicable to the Anchorage and Fairbanks testing facilities.

1. All test fees are payable in advance and must be received in the Juneau office by the Thursday prior to the test.
 - A. Test dates in Anchorage are the first and third Thursdays of each month at 7:00 p.m.
 - B. There is only one test date per month in Fairbanks, that is the first Thursday of the month at 1:00 p.m.

In Anchorage, all fees are collectible in advance (AS 21.06.250(a)). NO checks will be accepted in the Anchorage office.

2. All applicants are requested to be at the test site no later than 6:45 p.m. to facilitate processing of the admittance cards so the examination may promptly begin at 7:00 p.m. (The test time is 7:00 p.m. to 10:00 p.m.)

3. If your admittance card is lost, not received by the day prior to the test date, or if there are errors on your admittance card, notify Juneau no later than noon, Juneau time, of the test day (10:00 a.m. Anchorage time). Juneau can authorize a new admittance card to be issued by the Anchorage office. You will be required to turn in the old admittance card when you pick up the corrected one. No corrected admittance cards will be accepted at the test site. Identification will be required, along with your admittance card before any applicant will be allowed to sit for an examination.

If an applicant cannot appear on the scheduled test date, they must notify the Juneau office (465-2578) 72 hours prior to the test date for rescheduling. For nonappearance without notification, the fee will be forfeited and another fee will need to be submitted before another examination date is scheduled.

4. When an applicant fails to pass an examination, there must be at least a 20-day study period before retesting. After the third time the applicant has failed to pass the examination, the applicant must wait at least 90 days from the date of the most recent failure before being eligible to retake that examination.

SHOW CAUSE ORDERS

★ 82-8: All insurance licenses of Fred A. Tucker and Fred A. Tucker and Company were revoked for numerous violations of the Insurance Code pertaining to surplus lines placements on logging and vessel insurance.

★ 83-1: Any and all licenses held by John C. Karnos were permanently revoked and fines totalling \$35,000 were levied for misappropriating funds for his personal use.

83-2: John C. Murphy entered into a consent agreement in lieu of SC 83-2 for misappropriating funds for his personal use and for acting as an agent without a license. A fine of \$1,000 was levied and his adjuster's license was permanently revoked.

* 83-3: Integrity Insurance Company entered into a stipulated agreement with the director and reimbursed \$1,000 in investigation expenses for paying commissions to an unlicensed person or firm.

83-4: Forrest Gene Short's agent's license was voluntarily surrendered until July 1, 1983 for irregularities pertaining to insurance applications.

* 83-5: Mead Reinsurance Corporation entered into a stipulated agreement with the director and reimbursed \$1,000 in investigation expenses for paying commissions to an unlicensed person or firm.

* 83-6: Planet Insurance Company entered into a stipulated agreement with the director and reimbursed \$1,000 in investigation expenses for paying commissions to an unlicensed person or firm.

* 83-7: Marsh and McLennon (Seattle) was fined \$2,000 with \$1,432 suspended for failing to file Surplus Line Affidavits from September 1982 - January 1983.

* 83-8: LaBow Haynes Company, Inc., entered into a stipulated agreement and paid fines of \$9,425 for writing insurance without a proper license and dealing with matters outside the scope of their license.

83-9: Fred S. James' hearing for charging a fee in excess of filed insurance rates was postponed until August.

CEASE AND DESIST ORDERS

* 82-5: Leroy E. Kuehne was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.

* 83-1: S. J. Petrakis Insurance Services, Inc., was ordered to cease and desist from transacting insurance in the State without a license and paid a \$2,000 penalty pursuant to a stipulated agreement.

* 83-2: Alexander Howden Insurance Services, Inc., of Atlanta, was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.

* 83-3: Baccala and Shoop Insurance Services of San Francisco, Los Angeles and Seattle were ordered to cease and desist from transacting insurance in the State of Alaska without a license. A fine of \$2,000 was levied by stipulated agreement.

* 83-4: Patricia Fleischman, Inc., was fined \$2,000 for dealing with an unlicensed producer in Alaska by the terms of a stipulated agreement.

* 83-5: Independent Contractors-Operators Association was ordered to cease and desist from conducting the business of insurance in Alaska without a license.

* 83-6: Patrick Hines was issued a Cease and Desist Order to stop the practice of insurance in Alaska without a license. Mr. Hines was subsequently issued an agent's license.

* 83-7: Aviation Insurance Unlimited Agency, Inc., was ordered to cease and desist from conducting the business of insurance in Alaska without a license.

* 83-8: John Robbins and Lightwing Insurance Agency was ordered to cease and desist from conducting the business of insurance in Alaska without a license.

* 83-9: Samuel W. Hartman was ordered to cease and desist from conducting the business of insurance in the State of Alaska without a license.

83-10: Not issued.

* 83-11: World Underwriters Northwest, Inc., was ordered to cease and desist from acting as a broker as they are only licensed as a nonresident surplus line broker.

BULLETINS

82-9: Schedule or Individual Risk Modification Plans. This bulletin eliminates aggregate limitations on schedule or individual risk modification plans for property and casualty. Rate modifications are limited, however, to the extent that they must be justified and shall not be discriminatory.

83-1: Notifies all resident and nonresident surplus line brokers that International Indemnity Company of Texas has not been approved for our "White List."



alaska

all lines charter



division of insurance newsletter

VOL. 14, NO. 1

FALL/WINTER 1982

DIRECTOR'S COMMENTS

by Kenneth C. Moore

TIME FOR REVIEW

In March 1979, I listed my specific philosophies and goals for the Division of Insurance.

My Philosophy remains the same.

Here are the goals restated. True evaluation must come from you, to see how we have measured up to the goals. I would appreciate your comments on how I view the results:

1. To bring the personnel of the Division of Insurance into closer contact with the public.

Result - Through public hearings, seminars, and literature, we have exposed ourselves. Inquiries are increasing, which would indicate some success.

2. To personally visit as many cities and villages as the travel budget will permit.

Result - We have tried. Alaska is a huge area. We will continue in this effort.

3. To publish an educational handbook on automobile insurance covering rate making factors and tips on securing automobile insurance.

Result - This book as well as one on homeowners has been published, the demand has been heavy.

4. To hold hearings in as close proximity as possible to the principals of such hearings.

Result - Completely accomplished for Alaskan residents.

5. To utilize the Division of Insurance financial and market surveillance personnel on any questions of solvency or market conduct where such action is justified and do so without delay.

Result - In the admitted market our efforts need improvement. In the Surplus Lines Market our actions have brought better results.

6. To personally make contacts in the insurance world that hopefully result in the insurance companies competing for business.

Result - There is now intense competition. The marketplace in many instances has corrected itself. Our sales effort in Workmen's Compensation and Nonstandard Automobile Insurance has been a notable success.

7. To encourage the insurance companies writing business in Alaska to invest portions of their assets in Alaska enterprises.

Result - Success here has been beyond our fondest expectations. Investments have expanded at the rate of approximately one hundred million dollars per year. In this we had the wholehearted assistance of our staff and from our agents and brokers.

2. Employees of admitted insurers need not be licensed to solicit, bind or otherwise carry on the business of insurance for their employer.

Licensees must also limit their insurance dealings to those types of insurance for which they are licensed. The most frequently noted violations are agents acting as brokers and agents or brokers acting as surplus line brokers.

TO COMPANIES APPOINTING AGENTS:

Agent appointment Forms 08-230 not submitted in four copies, typewritten, and signed by an authorized person will no longer be accepted by the division. Deviation from this in the past has caused delays in issuing appointments and overall confusion. We will be better able to serve you under the new procedure.

ATTENTION RESIDENT BROKERS:

Broker licenses will be up for renewal December 31, 1982. The division will attempt to send a renewal Form 08-266 sometime before the first of December. If the form has not been received before the time indicated, notify our office in Juneau or Anchorage so a form can be sent or picked up. Submit forms and fees on time or a late filing may result in a penalty.

SHOW CAUSE ORDERS

81-14: Barry Callahan's agent license was revoked and fines totalling \$850.00 were levied for submitting false applications for insurance.

81-11: Lawrence M. English's life agents license was revoked and fines totalling \$4,000.00 were levied for soliciting surplus lines insurance without an appropriate license.

81-16: Neil Padgett, Harold Wurster, and John Kelczewski all had their life agents licenses permanently revoked and fines totalling \$1,650.00 were levied for trade practice violations committed as agents of Combined Insurance Company of America. Combined entered into an agreement limiting the scope of their future operations in this State and agreed to reimburse the State for up to \$20,000.00 in past and future investigation costs related to their agents.

82-2: Greg Parks entered into a settlement agreement for operating without a valid license for a period in excess of one year. A penalty of \$2,000.00 was levied.

82-3: Bayly Martin and Fay, Clyde Clary, Lois Clary, Jack Katzenmeyer, and Mary Shields have each entered into an agreement in settlement of Show Cause 82-3.

BMF as owners agreed to closely monitor their Alaska operations in the future and pay a \$75,000.00 fine. BMF was dismissed from further actions without prejudice.

Clyde Clary's licenses were revoked and a fine of \$75,000.00 was levied with \$70,000.00 suspended provided that he commit no further violations of AS 21.

Lois Clary's surplus lines brokers license was revoked and fines of \$50,000.00 were levied with \$45,000.00 suspended provided that she commit no further violations of AS 21 during the next five years. She is also prohibited from dealing with premium finance matters for five years.

Jack Katzenmeyer agreed not to violate any part of AS 21.

Mary Shields was fined \$10,000.00 with \$9,000.00 suspended provided that she not violate AS 21 during the next five years. She is prohibited from exercising any signatory powers on behalf of any insurance agency in this State.

82-5: Lambert "Pete" Peterson hearing was continued pending the outcome of criminal proceedings against him. NOTE: Peterson was convicted on seven criminal counts. Sentencing has been set for January 14, 1983. Peterson has announced his intent to appeal.

82-7: Gail Brewer's insurance licenses were revoked for unfair trade practices relating to his failure to place coverage despite his assurances to the client that coverage was in effect at all times.

CEASE AND DESIST ORDERS

81-15 & 81-16: Robert and John Deck were ordered to cease and desist from soliciting insurance without a license.

82-2: Cease and Desist Order issued to Alaska Shield for acting as an insurer without a Certificate of Authority. On appeal a hearing has been set for March 1983 with the concurrence of all parties.

* 82-3: Property Management Service, Inc. was ordered to cease and desist from solicitation of insurance without a license.

* 82-4: Midwest Mutual Insurance Company was ordered to cease and desist solicitation of insurance in the State of Alaska without a Certificate of Authority.

BULLETINS

82-1: Notifies all resident and nonresident surplus lines brokers that surplus line affidavits must be filed within 30 days of the end of the month for which the report is made.

82-2: On February 2, 1982, the director issued an updated list of eligible unauthorized insurers who have met Alaska's minimum trust or capital and surplus requirements.

82-3: The director continued permission to place aircraft workers compensation in the surplus lines market. This bulletin also sets out certain conditions on the placement of this coverage.

82-4: Rescinded

82-5: Advised all insurers of possible delays caused by renovation of the Juneau office. Renovation was completed October 14.

82-6: On August 10, 1982, the director issued an updated list of eligible unauthorized insurers who have met Alaska's minimum trust or capital and surplus requirements.

82-7: Removed Oceanus Mutual Underwriting Association from the "White list" of approved unauthorized insurers on October 7, 1982.

82-8: Notified all surplus lines brokers to cease using Amherst Insurance Company. The company is in receivership.

REGULATORY ORDERS

81-6: Adopted medicare supplement regulations.

81-7: Authorizes political subdivisions as a qualifying group for life and disability coverages.

81-8: Requires insurers to adopt supplement payment coverage pertaining to attorney fees.

81-9: Pertains to filings by title insurers.

81-10: Adopted regulations pertaining to variable life insurance.

81-11: Approved merger of INA Corporation and Connecticut General Corporation.

81-12: Approved the application of Alaska National Insurance Company to invest in a wholly owned subsidiary in order to acquire ownership in their home office building.

82-1: Repeals regulations pertaining to deposits required by insurers holding a Certificate of Insurance.

In this newsletter we have omitted the changes in company names and companies newly admitted to conduct business in the State. Copies of these lists are available upon request. Please enclose a stamped self-addressed envelope with your request.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 3-29-84

REQUEST

Bill/Resolution No.: CSHB 505(L&C)
Title: Insurance

FISCAL DETAIL

Agency Affected: Commerce and Economic Dev.
Program Category Affected: Public Protection

Sponsor: Labor and Commerce
Requestor: Labor and Commerce
Date of Request: _____

BRU, Program or Subprogram(s) Affected:
Division of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING	0	0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENEPA' FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Kenneth C. Moore, Director
Division: Insurance

Phone: 465-2515
Date: 3/29/84

Approved by Commissioner: Richard A. Lyon
Agency: Commerce and Economic Development

Date: 3/29/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 505
Title: Insurance

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
Program Category Affected: Public Prot

Sponsor: Martin
Requestor: Labor & Commerce
Date of Request: _____

BRU, Program or Subprogram(s) Affected:
Division of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING	0	0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Kenneth C. Moore Director
Division: Insurance

Phone: 465-2515
Date: _____

Approved by Commissioner: Richard A. Ivon
Agency: Commerce & Economic Development

Date: 1/20/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83