

H B

704

*Sec. 1. AS 21 is amended by adding a new chapter to read:

CHAPTER 59.

AUTOMOBILE SERVICE CORPORATIONS

Sec. 21.59.010. SCOPE OF CHAPTER. (a) This chapter applies to every individual, person, firm, corporation, or organization of any kind hereafter engaging or purporting to engage in the provision of all or part of an automobile service corporation coverage as defined in AS 21.59.900, for its subscribers in exchange for periodic prepayments by the subscriber.

(b) This chapter does not apply to a person issued a certificate of authority under AS 21.09.

(c) No provision of this title may apply to an automobile service corporation unless contained or referred to in this chapter.

Sec. 21.59.020. INCORPORATION - CERTIFICATE OF AUTHORITY REQUIRED.

(a) A person engaged in or purporting to engage in the provision of an automobile service corporation service shall be incorporated under the laws of Alaska as a nonprofit corporation and be currently authorized as an automobile service corporation under a certificate of authority issued by the director under this chapter.

(b) Before the articles of incorporation of the proposed corporation or amendments to existing articles of incorporation are filed with the commissioner of commerce, they shall be submitted to the director, and the commissioner of commerce shall not file the articles or amendments unless the director's approval is endorsed thereon. The director shall approve the articles or amendments unless he finds that they do not comply with law. If not approved, the director shall return the proposed articles of incorporation to the incorporators or amendments to the corporation, together with his written statement of particulars of the reasons for nonapproval.

Sec. 21.59.030 QUALIFICATIONS FOR CERTIFICATE OF AUTHORITY. The director may not issue or permit to exist a certificate of authority to be or act as an automobile service corporation to a corporation which does not fulfill the following qualifications:

(1) it must be incorporated as an automobile service corporation;
(2) it must intend to and actually conduct its business in good faith as a nonprofit corporation;

(3) if a newly formed corporation, it must possess sufficient available working funds to pay all reasonably anticipated cost of acquisition of new business and operating expenses, other than losses, for a period of not less than six months following the date of issuance of the certificate of authority;

(4) it must post with the director, a bond in the amount of \$50,000, issued by a corporate surety authorized under AS 21 to act as surety and conditioned upon the organization's faithful fulfillment of its contracts; and,

(5) it must fulfill all other applicable requirements of this chapter.

Sec. 21.59.040 CERTIFICATE OF AUTHORITY. (a) Application for a certificate of authority to transact business as an automobile service corporation shall be made to the director, on forms as prepared and furnished by the director and requiring the information relative to the applicant, its directors, officers, and affairs as the director may

reasonably require consistent with this chapter.

(b) The application shall be accompanied by the following documents:

(1) one copy of the applicant's articles of incorporation and all amendments, certified by the commissioner of commerce;

(2) one copy of the applicant's bylaws, certified by its corporate secretary;

(3) one copy of each subscribers' contract proposed to be offered;

(4) a financial statement of the applicant as of the date not more than 30 days before the filing of the application, showing the amount of working funds available to the applicant, the source of the funds, any pertinent data related thereto, and accompanied by a copy of the agreement under which the funds were contributed to or provided for the applicant;

(5) the bond required in as 21.59.030(4); and,

(6) a copy of any other relevant document reasonably requested by the director.

Sec. 21.59.050. RESERVES. (a) Each automobile service corporation shall establish and maintain unimpaired reserves as follows:

(1) a reserve in an amount not less than all legal obligations of the corporation, other than claims originating under subscriber's contracts, due but unpaid;

(2) a reserve equal to not less than the amount necessary by reasonable estimate to pay all claims incurred under subscriber's contracts but currently unpaid, and including a reasonable additional amount to cover claims incurred but not reported to the corporation at the time of determination of the corporation's financial condition; and,

(3) a reserve equal to 50 per cent of all sums charged and received by the corporation during the calendar period covered by the financial statement, on account of indemnity benefits provided in subscriber's contracts for terms for which premium was last paid and unexpired at the date of the financial statement.

(b) The reserves required under (a) of this section constitute a liability of the corporation in a determination of its financial condition.

Sec. 21.59.060. RECORDS AND ACCOUNTS. (a) An automobile service corporation shall establish and maintain complete and accurate records and accounts covering its transactions and affairs, in accordance with common and accepted principles and practices of insurance accounting and record keeping as applied to the business of the corporation.

(b) The corporation shall establish a separate record of each claim received for benefits under a subscriber's contract, whether the claim is for service or for indemnity. The claim record shall contain information reasonably necessary for the determination of:

(1) the identity of the claimant;

(2) the nature of the claim;

(3) the probable amount to be paid by the corporation on account of the claim; and,

(4) the amounts actually paid by the corporation on account of the claim.

Sec. 21.59.070. OTHER PROVISIONS APPLICABLE. In addition to the provisions contained in this chapter, other chapters and provisions of this title shall apply to automobile service corporations, to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of the express provisions, and

for the purposes of the application the corporations shall be considered to be mutual insurers, as follows:

- (1) AS 21.03
- (2) AS 21.06
- (3) AS 21.09.050
- (4) AS 21.09.100-260
- (5) AS 21.12
- (6) AS 21.36
- (7) AS 21.69
- (8) AS 21.78
- (9) AS 21.90.

Sec.21.59.900. DEFINITIONS. In this chapter

(1) "automobile service corporation" means a corporation providing all or part of one or more automobile service corporation services for subscribers in exchange for periodic prepayment in identifiable amount by or as to the subscribers;

(2) "services" means any professional service, technical service, replacement of goods which the corporation may become obligated to provide upon a contingent event or a certain event which may occur at an uncertain time and for which a specified single or periodic prepayment is charged or collected, including, but not limited to

(A) emergency road service;

(B) reimbursement of legal fees for representation on traffic offenses;

(C) providing bail bonds for traffic offenses;

(D) providing maps and trip planning services; and,

(E) arrangement of discounts, rebates or price reductions on travel related goods and services.

(3) "subscribers contracts" means the contract between the automobile service corporation and its subscriber under which all or a part of one or more services is to be rendered to or on behalf of the subscriber by an automobile service corporation or by a provider that has entered into a service agreement with the automobile service corporation.

*Sec. 1. AS 21 is amended by adding a new chapter to read:
CHAPTER 59.

AUTOMOBILE SERVICE CORPORATIONS

Sec. 21.59.010. SCOPE OF CHAPTER. (a) This chapter applies to every individual, person, firm, corporation, or organization of any kind hereafter engaging or purporting to engage in the provision of all or part of an automobile service corporation coverage as defined in AS 21.59.900, for its subscribers in exchange for periodic prepayments by the subscriber.

(b) This chapter does not apply to a person issued a certificate of authority under AS 21.09.

(c) No provision of this title may apply to an automobile service corporation unless contained or referred to in this chapter.

Sec. 21.59.020. INCORPORATION - CERTIFICATE OF AUTHORITY REQUIRED.

(a) A person engaged in or purporting to engage in the provision of an automobile service corporation service shall be incorporated as a nonprofit corporation and be currently authorized as an automobile service corporation under a certificate of authority issued by the director under this chapter.

(b) If a proposed corporation is to be formed under the laws of Alaska, the articles of incorporation of the proposed corporation or amendments to existing articles of incorporation are to be submitted to the director before they shall be filed with the commissioner of commerce, and the commissioner of commerce shall not file the articles or amendments unless the director's approval is endorsed thereon. The director shall approve the articles or amendments unless he finds that they do not comply with law. If not approved, the director shall return the proposed articles of incorporation to the incorporators or amendments to the corporation, together with his written statement of particulars of the reasons for nonapproval.

Sec. 21.59.030 QUALIFICATIONS FOR CERTIFICATE OF AUTHORITY. The director may not issue or permit to exist a certificate of authority to be or act as an automobile service corporation to a corporation which does not fulfill the following qualifications:

(1) if a newly formed corporation, it must possess sufficient available working funds to pay all reasonably anticipated cost of acquisition of new business and operating expenses, other than losses, for a period of not less than six months following the date of issuance of the certificate of authority;

(2) it must post with the director, a bond in the amount of \$50,000, issued by a corporate surety authorized under AS 21 to act as surety and conditioned upon the organization's faithful fulfillment of its contracts; and,

(3) it must fulfill all other applicable requirements of this chapter.

Sec. 21.59.040 CERTIFICATE OF AUTHORITY. (a) Application for a certificate of authority to transact business as an automobile service corporation shall be made to the director, on forms as prepared and furnished by the director and requiring the information relative to the applicant, its directors, officers, and affairs as the director may reasonably require consistent with this chapter.

(b) The application shall be accompanied by the following documents:

(1) one copy of the applicant's articles of incorporation and all amendments, certified by the appropriate official of the state of incorporation;

(2) one copy of the applicant's bylaws, certified by its corporate secretary;

(3) one copy of each subscribers' contract proposed to be offered;

(4) an audited financial statement of the applicant for the most recent fiscal year; or, a financial statement of the applicant as of the date not more than 30 days before the filing of the application, showing the amount of working funds available to the applicant, the source of the funds, any pertinent data related thereto, and accompanied by a copy of the agreement under which the funds were contributed to or provided for the applicant;

(5) the bond required in AS 21.59.030(2); and,

(6) a copy of any other relevant document reasonably requested by the director.

Sec. 21.59.060. RESERVES. (a) Each automobile service corporation shall establish and maintain unimpaired reserves as follows:

(1) a reserve in an amount not less than all legal obligations of the corporation, other than claims originating under subscriber's contracts, due but unpaid;

(2) a reserve equal to not less than the amount necessary by reasonable estimate to pay all claims incurred under subscriber's contracts but currently unpaid, and including a reasonable additional amount to cover claims incurred but not reported to the corporation at the time of determination of the corporation's financial condition; and,

(3) a reserve equal to 50 per cent of all sums charged and received by the corporation during the calendar period covered by the financial statement, on account of indemnity benefits provided in subscriber's contracts for terms for which premium was last paid and unexpired at the date of the financial statement.

(b) The reserves required under (a) of this section constitute a liability of the corporation in a determination of its financial condition.

(c) The requirements of (a) and (b) of this section do not apply if the automobile service corporation shall in lieu of the bond required in AS 21.59.030(2), file a bond under that section in the amount of \$200,000.

Sec. 21.59.060. RECORDS AND ACCOUNTS. An automobile service corporation shall establish and maintain complete and accurate records and accounts covering its transactions and affairs, in accordance with generally accepted accounting principles as applied to the business of the corporation.

Sec. 21.59.070. OTHER PROVISIONS APPLICABLE. In addition to the provisions contained in this chapter, other chapters and provisions of this title shall apply to automobile service corporations, to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of the express provisions, and for the purposes of the application the corporations shall be considered to be mutual insurers, as follows:

(1) AS 21.03

(2) AS 21.06

(3) AS 21.09.050

(4) AS 21.09.100-260

(5) AS 21.12

- (6) AS 21.36
- (7) AS 21.69
- (8) AS 21.78
- (9) AS 21.90.

Sec.21.59.900. DEFINITIONS. In this chapter

(1) "automobile service corporation" means a corporation providing all or part of one or more automobile service corporation services for subscribers in exchange for periodic prepayment in identifiable amount by or as to the subscribers;

(2) "automobile service corporation services" means any professional service, technical service, replacement of goods which the corporation may become obligated to provide upon a contingent event or a certain event which may occur at an uncertain time and for which a specified single or periodic prepayment is charged or collected, including, but not limited to

(A) emergency road service;

(B) reimbursement of legal fees for representation on traffic offenses; and,

(C) providing bail bonds for traffic offenses.

An automobile service corporation may provide other services or benefits which do not fall within the definition of an automobile service corporation services.

(3) "subscriber's contract" means the contract between the automobile service corporation and its subscriber under which all or a part of one or more services is to be rendered to or on behalf of the subscriber by an automobile service corporation or by a provider that has entered into a service agreement with the automobile service corporation.

*Sec. 1. AS 21 is amended by adding a new chapter to read:
CHAPTER 59.

AUTOMOBILE CLUBS

Sec. 21.59.010. SCOPE OF CHAPTER. (a) This chapter applies to every individual, person, firm, corporation, or organization of any kind hereafter engaging or purporting to engage in the provision of all or part of an automobile club service as defined in AS 21.59.900, for its subscribers in exchange for periodic prepayments by the subscriber.

(b) This chapter does not apply to a person issued a certificate of authority under AS 21.09.

(c) No provision of this title may apply to an automobile club unless contained or referred to in this chapter.

Sec. 21.59.020. INCORPORATION - CERTIFICATE OF AUTHORITY REQUIRED.

(a) A person engaged in or purporting to engage in the provision of an automobile club service shall be incorporated as a nonprofit corporation and be currently authorized as an automobile club under a certificate of authority issued by the director under this chapter.

(b) If a proposed corporation is to be formed under the laws of Alaska, the articles of incorporation of the proposed corporation or amendments to existing articles of incorporation are to be submitted to the director before they shall be filed with the commissioner of commerce, and the commissioner of commerce shall not file the articles or amendments unless the director's approval is endorsed thereon. The director shall approve the articles or amendments unless he finds that they do not comply with law. If not approved, the director shall return the proposed articles of incorporation to the incorporators or amendments to the corporation, together with his written statement of particulars of the reasons for nonapproval.

Sec. 21.59.030 QUALIFICATIONS FOR CERTIFICATE OF AUTHORITY. The director may not issue or permit to exist a certificate of authority to be or act as an automobile club to a corporation which does not fulfill the following qualifications:

(1) if a newly formed corporation, it must possess sufficient available working funds to pay all reasonably anticipated cost of acquisition of new business and operating expenses, other than losses, for a period of not less than six months following the date of issuance of the certificate of authority;

(2) it must post with the director, a bond in the amount of \$50,000, issued by a corporate surety authorized under AS 21 to act as surety and conditioned upon the organization's faithful fulfillment of its contracts; and,

(3) it must fulfill all other applicable requirements of this chapter.

Sec. 21.59.040 CERTIFICATE OF AUTHORITY. (a) Application for a certificate of authority to transact business as an automobile club shall be made to the director, on forms as prepared and furnished by the director and requiring the information relative to the applicant, its directors, officers, and affairs as the director may reasonably require consistent with this chapter.

(b) The application shall be accompanied by the following documents:

(1) one copy of the applicant's articles of incorporation and all amendments, certified by the appropriate official of the state of

incorporation;

(2) one copy of the applicant's bylaws, certified by its corporate secretary;

(3) one copy of each subscribers' contract proposed to be offered;

(4) an audited financial statement of the applicant for the most recent fiscal year; or, a financial statement of the applicant as of the date not more than 30 days before the filing of the application, showing the amount of working funds available to the applicant, the source of the funds, any pertinent data related thereto, and accompanied by a copy of the agreement under which the funds were contributed to or provided for the applicant;

(5) the bond required in AS 21.59.030(2); and,

(6) a copy of any other relevant document reasonably requested by the director.

Sec. 21.59.050. RESERVES. (a) Each automobile club shall establish and maintain unimpaired reserves as follows:

(1) a reserve in an amount not less than all legal obligations of the corporation, other than claims originating under subscriber's contracts, due but unpaid;

(2) a reserve equal to not less than the amount necessary by reasonable estimate to pay all claims incurred under subscriber's contracts but currently unpaid, and including a reasonable additional amount to cover claims incurred but not reported to the corporation at the time of determination of the corporation's financial condition; and,

(3) a reserve equal to 50 per cent of all sums charged and received by the corporation during the calendar period covered by the financial statement, on account of indemnity benefits provided in subscriber's contracts for terms for which premium was last paid and unexpired at the date of the financial statement.

(b) The reserves required under (a) of this section constitute a liability of the corporation in a determination of its financial condition.

(c) The requirements of (a) and (b) of this section do not apply if the automobile club shall in lieu of the bond required in AS 21.59.030(2), file a bond under that section in the amount of \$250,000.

Sec. 21.59.060. RECORDS AND ACCOUNTS. An automobile service corporation shall establish and maintain complete and accurate records and accounts covering its transactions and affairs, in accordance with generally accepted accounting principles as applied to the business of the corporation.

Sec. 21.59.070. OTHER PROVISIONS APPLICABLE. In addition to the provisions contained in this chapter, other chapters and provisions of this title shall apply to automobile club, to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of the express provisions, and for the purposes of the application the corporations shall be considered to be stock insurers, as follows:

(1) AS 21.03

(2) AS 21.06

(3) AS 21.09.050

(4) AS 21.09.100

(5) AS 21.09.120-210

(6) AS 21.12

- (7) AS 21.36
- (8) AS 21.69
- (9) AS 21.78
- (10) AS 21.90.

Sec.21.59.900. DEFINITIONS. In this chapter

(1) "automobile club" means a corporation providing all or part of one or more automobile club services for subscribers in exchange for periodic prepayment in identifiable amount by or as to the subscribers;

(2) "automobile club services" means any professional service, technical service, replacement of goods which the corporation may become obligated to provide upon a contingent event or a certain event which may occur at an uncertain time and for which a specified single or periodic prepayment is charged or collected, including, but not limited to

(A) emergency road service;

(B) reimbursement of legal fees for representation on traffic offenses; and,

(C) providing bail bonds for traffic offenses.

An automobile club may provide other services or benefits which do not fall within the definition of automobile club services.

(3) "subscriber's contract" means the contract between the automobile club and its subscriber under which all or a part of one or more services is to be rendered to or on behalf of the subscriber by an automobile club or by a provider that has entered into a service agreement with the automobile club.

This proposal is intended to permit auto clubs to form and operate in Alaska. Since auto clubs do provide very limited forms of insurance, they are currently required to form as an insurer under Title 21. This is effectively a barrier since those requirements are aimed at a different kind of entity. The division recognizes that the requirements for an auto club do not need to be as stringent as for a normal insurer and support the concept encompassed in HB 704. HB 704, however presented a dilemma that we have attempted to resolve with a suggested substitute. HB 704 provided the director with duties to do certain things, yet the statute giving him the authority to do those things is made not effective. While this may be a minor consideration, there are other things in the insurance code that should be made applicable, hence the redraft. We have used the statute allowing hospital or medical service corporations as a guide in structuring this substitute.

Sec. 21.59.010.

This section requires that an auto club is subject to the provisions of the new chapter. It excludes insurers with a certificate of authority issued under AS 21.09. It also provides that only provisions referred to or contained in AS 21.59 apply to an auto club.

Sec. 21.59.020.

This section requires that the auto club be a nonprofit corporation and hold a certificate of authority issued by the director. It also establishes some procedural requirements about order of filing certain documents if the auto club is a domestic.

Sec. 21.59.030.

This section establishes qualifications for a certificate of authority. The auto club must be financially sound and it must post a bond assuring that it will meet its contractual obligations.

Sec. 21.59.040.

This section lists the documents needed to obtain a certificate of authority. (4) provides an option of two ways to provide some evidence of financial soundness. The rest is almost boilerplate requirements for issuance of a certificate of authority.

Sec. 21.59.050.

Subsections (a) and (b) provide the reserves needed if the bond filed under Sec. 21.59.030(2) is for \$50,000. Subsection (c) makes no special reserve requirements if the bond filed under Sec. 21.59.030(2) is for \$250,000. Since the amounts for which the auto club will be at risk are very low for each subscriber, the bond is a good substitute.

Sec. 21.59.060.

This section requires that records be kept on a generally accepted accounting principles basis rather than that usual to an insurer, a statutory basis.

Sec. 21.59.070.

Since this is an exclusive statute, one to which provisions outside of the chapter do not apply, this section is needed to bring other appropriate sections of the insurance code to bear on auto clubs.

AS 21.03. This chapter deals with the scope of the insurance code.

AS 21.06. This chapter establishes the authority and powers of the director of insurance.

AS 21.09.050. This section bars misleading or duplication of insurer names.

AS 21.09.100. This section deals with management and affiliations of insurers.

AS 21.09 120-170. These sections deal with the certificate of authority. Issuance, refusal to issue, ownership, continuance, expiration, reinstatement, amendment, revocation, suspension, and duration of suspension of a certificate of authority.

AS 21.09.180-190. These sections deal with service of process.

AS 21.09.200. This section deals with an annual statement.

AS 21.09.210. This section deals with taxation.

AS 21.12. This chapter defines the kinds of insurance.

AS 21.36. This chapter deals with unfair trade practices and frauds.

AS 21.69. This chapter deals with organization and corporate procedure for domestic corporations.

AS 21.78. This chapter deals with rehabilitation and liquidation of impaired or insolvent insurers.

AS 21.90. This chapter contains the general penalty section and general definitions for the insurance code.

Sec 21.59.900.

Definition section.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 704 (L&C)
Title: Automobile clubs

Sponsor: Labor & Commerce
Requestor: Labor & Commerce
Date of Request: 4/9/84

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
Program Category Affected: _____

Public Protection
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						
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						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS: None

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: 4/9/84

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

Date: 4/9/84

Distribution (by Agency preparing fiscal note):

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

12/1/83

APRIL 4, 1984

TO: JOHN

FROM: KEN

RE: HB 704 "RELATING TO AUTOMOBILE CLUBS"

THE INTENT OF HB 704 IS TO AMEND ALASKA STATUTES TO PERMIT THE TRIPLE A AUTOMOBILE CLUB TO INCORPORATE IN ALASKA AS A NON-PROFIT CORPORATION. BECAUSE SEVERAL OF THE SERVICES OFFERED BY TRIPLE A WOULD FALL UNDER THE DEFINITION OF INSURANCE, THE DIVISION OF INSURANCE FELT A NUMBER OF CHANGES WERE NECESSARY TO PREVENT PROBLEMS IN THE STATUTES FOR BOTH THE DIVISION AND FOR TRIPLE A.

IT IS MY UNDERSTANDING THAT DURING THE PAST TWO REPRESENTATIVES OF TRIPLE A AND THE DIVISION OF INSURANCE HAVE WORKED TO DEVELOP A COMPROMISE PIECE OF LEGISLATION WHICH ACCOMMODATES TRIPLE A'S REQUEST FOR INCORPORATION AND SOLVES STATUTE PROBLEMS CITED BY THE DIVISION. A BRIEFING PAPER HAS BEEN SUPPLIED BY TRIPLE A'S REPRESENTATIVES WHICH DETAILS SOME OF THE STATUTORY PROBLEMS. THE RESULTING DRAFT LEGISLATION IS IN ALL MEMBERS PACKETS. A SECTIONAL ANALYSIS IS ATTACHED TO THE BACK.

QUESTIONS

1. WHY HAS THE TRIPLE A AUTO CLUB NOT SOUGHT TO ORGANIZE IN ALASKA BEFORE ?

2. WHY HAS THIS BILL BEEN EXPANDED SO MUCH FROM THE ORIGINAL VERSION ?