



Official Business

Alaska State Legislature

Senate

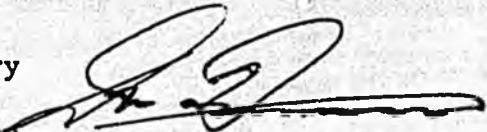
Committee on Finance

MEMORANDUM

Pouch V
State Capitol
Juneau, Alaska 99811

June 2, 1983

TO: Peggy Mulligan, Senate Secretary

FROM: Senator Don Bennett, Co-Chairman 

SUBJECT: SENATE BILL 66 - MUNICIPAL SELF INSURANCE FOR WORKERS' COMPENSATION

On Monday, May 31st, the Senate Finance Committee briefly took up the matter of SB 66. At that time it was decided by the committee that we move the bill to the Senate Rules Committee as CSHB 308 is almost identical.

It is my understanding that since we did not process the committee report, you need this documentation prior to reading the bill across the floor and its further referral to the Rules Committee.

Thank you for your anticipated prompt attention to this matter.

DB/jnk

cc: Finance Committee
Kathy Holmquist, Senate Finance Secretary

Introduced: 1/24/83
Referred: Labor and Commerce
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 66

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal self insurance for
7 workers' compensation."

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

9 * Section 1. AS 23.30.075 is amended to read:

10 Sec. 23.30.075. EMPLOYER'S LIABILITY TO PAY. (a) An employer
11 under this chapter, unless exempted, shall either insure and keep in-
12 sured for his liability under this chapter in an insurance company or
13 association duly authorized to transact the business of workers' com-
14 pensation insurance in this state, or shall furnish the board satis-
15 factory proof of his financial ability to pay directly the compen-
16 sation provided for. If an employer elects to pay directly, the board
17 may, in its discretion, require the deposit of an acceptable security,
18 indemnity or bond to secure the payment of compensation liabilities as
19 they are incurred.

20 (b) Under regulations adopted by the board, two or more munic-
21 ipalities may enter into an agreement to organize a self-insurance
22 group in order to pool their liabilities under this chapter. As used
23 in this subsection, "municipality" has the same meaning as set out in
24 AS 29.78.010.

25 (c) An employer who fails to insure and keep insured employees
26 subject to this chapter or fails to obtain a certificate of self-
27 insurance from the board, upon conviction, is punishable by a fine of
28 not more than \$1,000, or by imprisonment for not more than one year,
29 or by both. If an employer is a corporation, and an injury or death

1 occurs at a time when the corporation is not insured or certified as a
2 self-insurer, then all persons who, at the time of the injury or
3 death, had the authority to insure the corporation or apply for a cer-
4 tificate of self-insurance are subject to the penalties set out in
5 this subsection and are personally, jointly, and severally liable to-
6 gether with the corporation for the payment of all compensation or
7 other benefits for which the corporation is liable under this chapter.

8 [IF AN EMPLOYER IS A CORPORATION, ALL PERSONS WHO, AT THE TIME OF THE
9 INJURY OR DEATH, HAD AUTHORITY TO INSURE SAID CORPORATION OR APPLY FOR
10 A CERTIFICATE OF SELF-INSURANCE, AND THE PERSON ACTIVELY IN CHARGE OF
11 THE BUSINESS OF SUCH CORPORATION SHALL BE SUBJECT TO THE PENALTIES
12 PRESCRIBED HEREIN AND SHALL BE PERSONALLY, JOINTLY, AND SEVERALLY
13 LIABLE TOGETHER WITH THE CORPORATION FOR THE PAYMENT OF ALL COMPEN-
14 SATION OR OTHER BENEFITS FOR WHICH THE CORPORATION IS LIABLE UNDER
15 THIS CHAPTER IF SAID CORPORATION AT SUCH TIME IS NOT INSURED OR QUAL-
16 IFIED AS A SELF-INSURER.]

17 * Sec. 2. AS 23.30.265(19) is amended to read:

18 (19) "self-insurer" means an employer who, instead of
19 insuring his liability under this chapter [AS IT PROVIDES], elects to
20 pay directly the compensation provided for, and who has furnished to
21 the board satisfactory proof of his financial ability to make the
22 direct payments; the term includes a member of a municipal
23 self-insurance group;

24

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CSSB 66 (L&C)
 Title: relating to insurance
 Sponsor: Labor & Commerce Comm.
 Requestor: Labor & Commerce Comm.

II. FISCAL DETAIL

Agency Affected: Commerce & Ec. Dev.
 Program Category Affected: Public Prot.
 BRU, Program of Subprogram(s) Affected: Division of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING		0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

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

Phone: 465-2515

Date: 4/6/83

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

Date: 4/8/83

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

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II. FISCAL DETAIL

Agency Affected: Commerce & Ec. Dev.
 Program Category Affected: Public Prot.
 BRU, Program of Subprogram(s) Affected: Division of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

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400 COMMODITIES						
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600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME		0	0	0	0	0
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3/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST 3/25/83 Draft II. FISCAL DETAIL
 Bill/Resolution No.: CSSB 66 (L&C) Agency Affected: Commerce & Ec. Dev
 Title: relating to insurance Program Category Affected: Public Prot.
 Sponsor: S. L&C BRU, Program of Subprogram(s) Affected:
 Requestor: S. L&C Division of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING		0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0
PART-TIME	0	0	0	0	0
TEMPORARY	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kenneth C. Moore, Director Phone: 465-2515
 Division: Insurance Date: 3/25/83

Approved by Commissioner: Richard A. Lyon Date: 3/25/83
 Department: Commerce & Economic Development

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3/8/83

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

5866
RECEIVED

JAN 26 1983

January 24, 1983 LEGISLATIVE FINANCE

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:


Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to workers' compensation. This bill authorizes municipalities to establish self-insurance groups, under Workers' Compensation Board regulations, in order to cover their liability for workers' compensation insurance under AS 23.30.

The essence of this bill is in the new AS 23.30.075(b) in sec. 1. It would give municipalities an alternative form of insuring their workers' compensation liabilities. Instead of purchasing insurance policies to cover their workers' compensation liabilities, two or more municipalities will be able to pool their resources and become self-insurers.

Other states which have enacted similar legislation have found that group self-insurance funds are able to provide at least equal benefits and service to its injured workers and usually more efficiently and at less cost to the employer.

The amendment to newly designated AS 23.30.075(c) is intended to clear up some awkward and confusing language. In doing so, one of the changes removes the reference to "the person actively in charge of the business of said corporation." If that person has authority to insure the corporation, he is already covered by the preceding clause of that sentence. If he does not, he should not be subjected to this kind of personal liability. Section 2's amendment of AS 23.30.265(19) merely recognizes the new AS 23.30.075(b).

Sincerely,


Bill Sheffield
Governor

1/26
ORIG TO
KATHY H

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. _____
Title "An Act relating to municipal self insurance for workers' compensation."
Requested by Rules Committee Date 1/7/83

II. FISCAL DETAIL

Agency Affected Labor
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Admin. of Workers' Compensation
(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 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
No fiscal impact.

RECEIVED

JAN 26 1983

LEGISLATIVE FINANCE

IV. DATE January 7, 1983 PREPARED BY Jacqueline L. McClintock

AGENCY Labor/
PHONE 465-2790

Original: Legislative Finance
cc: Budget and Management 33-001:A:5
Prime Sponsor (First Legislator Named)

Offered: 3/30/83
Referred: Finance

Original sponsor: Rules/Governor

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2

CS FOR SENATE BILL NO. 66 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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

8 * Section 1. AS 21.39.155(a) is amended to read:

9 (a) The director may require carriers, except a reciprocal
10 insurer formed under AS 21.75, as a condition of writing a line of
11 insurance dealing with workers' compensation, to participate in an
12 assigned risk pool if the director finds that mandatory carrier par-
13 ticipation is in the public interest.

14 * Sec. 2. AS 21.75.050 is amended by adding a new subsection to read:

15 (c) A domestic reciprocal insurer formed under this chapter by
16 two or more municipalities shall (1) comply with (a) of this section
17 or post a bond for an amount equal to the capital that would be re-
18 quired of a domestic stock insurer writing the same lines of insurance
19 for which the reciprocal insurer seeks to be authorized, and (2)
20 maintain a surplus of \$250,000 or a surplus sufficient to operate the
21 reciprocal insurer for one year, whichever is greater.

22 * Sec. 3. AS 21.75.060(a) is amended to read:

23 (a) Two [TWENTY-FIVE] or more persons domiciled in this state
24 may organize a domestic reciprocal insurer and make application to the
25 director for a certificate of authority to transact insurance.

26 * Sec. 4. AS 21.75 is amended by adding a new section to read:

27 Sec. 21.75.340. DEFINITIONS. In this chapter "municipality"
28 means a political subdivision incorporated under the laws of the state
29 that is a home rule or general law city, a home rule or general law

1 borough, or a unified municipality.

2 * Sec. 5. AS 21.80.180(5) is amended to read:

3 (5) "insolvent insurer" means an insurer

4 (A) authorized to transact insurance in this state,
5 except an assessable reciprocal insurer formed by municipalities
6 or public utilities, the Medical Indemnity Corporation of Alaska,
7 and the Health Care Providers Joint Underwriting Association
8 established under AS 21.88.010 - 21.88.900, either at the time
9 the policy was issued or when the insured event occurred, and

10 (B) determined to be insolvent by a court of competent
11 jurisdiction;

12 * Sec. 6. AS 21.80.180(6) is amended to read:

13 (6) "member insurer" means a person, except an assessable
14 reciprocal insurer formed by municipalities or public utilities, the
15 Medical Indemnity Corporation of Alaska, and the Health Care Providers
16 Joint Underwriting Association established under AS 21.88.010 - 21.-
17 88.900, who

18 (A) writes any kind of insurance to which AS 21.80.-
19 010 - 21.80.190 apply under AS 21.80.020 including the exchange
20 of reciprocal or inter-insurance contracts, and

21 (B) is licensed to transact insurance in this state;

COMMITTEE REPORT
SENATE

1/24/83

FURTHER: FINANCE

Date: 3/29/83

Mr. President:

The Committee on LABOR & COMMERCE has had sb 66

An Act relating to municipal self insurance for workers' compensation

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 66 (L&C) same title
- new title
- and ~~recommends do pass~~ reports it back as follows:
- AND attaches a "Letter of Intent" Zero New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

2 Patrick Rodey no rec.
2 Bob Mulvaney no rec.

1 [Signature]
CHAIRMAN

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 24, 1983

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to workers' compensation. This bill authorizes municipalities to establish self-insurance groups, under Workers' Compensation Board regulations, in order to cover their liability for workers' compensation insurance under AS 23.30.

The essence of this bill is in the new AS 23.30.075(b) in sec. 1. It would give municipalities an alternative form of insuring their workers' compensation liabilities. Instead of purchasing insurance policies to cover their workers' compensation liabilities, two or more municipalities will be able to pool their resources and become self-insurers.

Other states which have enacted similar legislation have found that group self-insurance funds are able to provide at least equal benefits and service to its injured workers and usually more efficiently and at less cost to the employer.

The amendment to newly designated AS 23.30.075(c) is intended to clear up some awkward and confusing language. In doing so, one of the changes removes the reference to "the person actively in charge of the business of said corporation." If that person has authority to insure the corporation, he is already covered by the preceding clause of that sentence. If he does not, he should not be subjected to this kind of personal liability. Section 2's amendment of AS 23.30.265(19) merely recognizes the new AS 23.30.075(b).

Sincerely,

Bill Sheffield
Governor

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST 3/25/83 Draft II. FISCAL DETAIL
Bill/Resolution No.: CSSB 66 (L&C) Agency Affected: Commerce & Ec. Dev
Title: relating to insurance Program Category Affected: Public Prot.
Sponsor: S. L&C BRU, Program of Subprogram(s) Affected:
Requestor: S. L&C Division of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING		0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kenneth C. Moore, Director Phone: 465-2515
 Division: Insurance Date: 3/25/83

Approved by Commissioner: Richard A. Lyon Date: 3/25/83
 Department: Commerce & Economic Development

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 66

Title "An Act relating to municipal self insurance for workers' compensation."

Requested by Rules Committee Date 1/7/83

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Public Protection

BRU, Program, Or Subprogram(s) Affected Admin. of Workers' Compensation

(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 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

No fiscal impact.

IV. DATE January 7, 1983

PREPARED BY Jacquelyn L. McClintock

AGENCY Labor

Original: Legislative Finance PHONE 465-2790

cc: Budget and Management 33-001:A:5
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

Summary of CSSB 66

Section 1 - This section exempts reciprocal insurers from the assigned risk pool. The rationale is that a reciprocal insurer is only a specialized group of individuals with similar activities and should be responsible with their own classification of insurance.

Description of an assigned risk pool.

Assigned Risk Pool

Since insurance is required to be carried by all employers, but insurance companies are not legally obligated to provide insurance to a particular employer, it was necessary to create a mechanism for poor risks, or risks that underwriters chose not to write voluntarily, to obtain their workers' compensation insurance. In Alaska an assigned risk pool has been established, and any employer who cannot obtain their insurance through negotiation with an insurance company may obtain their insurance from the assigned risk pool at standard rates. The net cost of operating the assigned risk pool, that is, the amount by which losses from pool risks exceed premium from pool risks, is paid by assessment of all other insurance companies pro-rata to their writings of workers' compensation insurance. In short, the cost of underwriting pool risks is borne by the workers' compensation system.

Section 2 - This section states or allows a municipality to post a bond equal to the amount necessary for capitalization.

minus \$250,000 which must be cash.

The required capital for a domestic stock insurer would be \$1 million if only one form of insurance is covered, for example workers' comp, and \$1.5 million if two forms of insurance are covered.

Section 3 - The number of persons needed to form a reciprocal was reduced to two.

Section 4 - The new definition of municipality is included. It was felt this definition encompassed the municipalities who could participate, i.e. those with taxing powers.

Section 5 - Defines "member insurer" to exclude an assessable reciprocal which in turn takes an assessable reciprocal out of the Guaranty Act.

The Guaranty Act is established to protect insurers if an insurance company folds up. An assessable reciprocal is responsible for its own insurers & therefore should not be responsible for others.

AS 21.80.180 (5) should probably be amended to exclude municipalities, public utilities from "insolvent insurer". If this were done then the municipalities & utilities would neither participate in the Guaranty nor would they be protected by it.

Note that your work draft excludes the reciprocal from AS Section 21.80.180 (6) (A), (Who Must Pay an Assessment for an Insolvency) but does not exclude them from AS 21.80.180 (5) (A) (Who's Insolvency Must Be Protected By The Guarantee Association.) It is my position that the municipal reciprocal must be included as part of the Guarantee Association both as to assessability and coverage, or excluded from the Guarantee Association both as to assessability and coverage. Because of the highly political nature of such a program and because I do not believe that the minimum criteria for forming a municipal reciprocal provides adequate protection for the long term growth and stability of such an organization, I would elect to have them not included in the Guarantee Association and exempt them from assessment.

Dick Block
Ak National
Insurance
Company

Explanation - Assigned Risk Pool

Assigned risk pool is where an individual obtains insurance - workers' comp or auto - when he/she is not able to obtain insurance elsewhere. Person applying must be current with prior insurance premiums.

Every insurance policies are handled by 5 insurance carriers. The premiums for loss if it comes up short, the short-fall is pro-rated among all insurance carriers. Workers' comp works this way.

Automobile insurance risks are covered by all Automobile insurance - the risk is shared.

Explanation - Capital required for reciprocals

If writing to cover only one form of insurance the capital requirement would be \$500,000 (capital) + \$500,000 (surplus) = \$1 million for non-assessable groups. Assessable groups would need 1/2 of amt. or total of \$500,000.

If coverage is for 2 or more kinds, \$ 750,000
(capita) + \$ 750,000 (surplus) is needed for
non-assessable. Assessable is $\frac{1}{2}$ amount.

①

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2515

DIVISION OF INSURANCE

March 23, 1983

Honorable Richard I. Eliason
Chairman
Committee on Labor and Commerce
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

RE: Position Paper SB 66

The Administration has carefully reviewed the ramifications of SB 66 and concludes that the public would best be served by a committee substitute that deletes the content of the current bill and replaces it with the enclosed changes which are similar to those forwarded to you on March 1, 1983.

SB 66 would allow two or more municipalities to pool their workers' compensation liabilities in a self-insured pool. The terms "self-insured pool" and "group self-insured" are anomalous terms. Self-insurance for two or more entities is insurance. The insurance code would normally apply to such situations. The bill as written, however, does not treat the combination of municipalities as an insurer. It would be more consistent with the general approach of the insurance code to treat this combination of municipalities the same as other combinations of other entities.

We recommend that SB 66 be replaced with a CS that would continue the regulation of insurers (group self-insurers) in the insurance code and apply the requirements for formation of an insurer to a group of municipalities. The requirements that would apply to municipalities, as well as public utilities, can be reasonably eased in view of the nature of those entities. The recommended easing would incorporate four changes. These are:

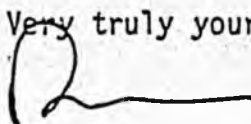
1. Reduction of the financial requirements for municipalities by permitting the use of a bond in lieu of cash surplus and by reducing the amount of operational surplus necessary;

March 23, 1983

2. Removal of any assigned risk liabilities that might otherwise accrue to an insurer formed by a group of municipalities or public utilities;
3. Reduction of the number of entities required to form a reciprocal insurer; and,
4. Removal of any liabilities in the Alaska Guaranty Association for insolvencies of other insurers if the insurer formed by a group of municipalities or public utilities is an assessable reciprocal insurer.

We believe that this is a reasonable stance which provides adequate public protection for claimants and policyholders.

Very truly yours,



Richard A. Lyon
Commissioner

RAL/cw#2113

Enclosure

cc: Art Peterson
Department of Law



ALASKA RURAL ELECTRIC COOPERATIVE
ASSOCIATION, INC.

237 E. FIREWEED LANE • SUITE 301
ANCHORAGE, ALASKA 99503 • (907) 276-3235

April 7, 1983

The Honorable Jan Faiks
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Faiks:

Thank you for taking the time to visit with me yesterday in regard to CSSB 66. The purpose of this letter is to summarize in written form the comments I made yesterday and to provide a little more detail on some of those points.

In 1979, the Alaska Rural Electric Cooperative Association applied to the Workers' Compensation Board for a self-insurance certificate for our member utilities. The certificate was issued effective January 1, 1980, and was renewed for a year effective January 1, 1981. Our program has been completely successful in meeting its obligations to the employees of its participants and in saving the participants substantial sums of money in insurance costs. Other associations, including the Municipal League, expressed interest in adopting group self-insurance programs modeled after ours.

At the beginning of 1982, our certificate was renewed for only a few months, and we were told that the Board was "reviewing the situation." In February 1982, Ms. Jacqueline McClintock of the Department of Labor requested an Attorney General's opinion regarding the legal status of group self-insurance programs in Alaska. In April, the Attorney General's opinion declared that since group self-insurance is not specifically mentioned in the Alaska statutes and it is in some other jurisdictions, it can be interpreted that group self-insurance is not authorized in this state.

Based on this opinion from the Attorney General, the Workers' Compensation Board terminated our certificate effective September 30, 1982. We appealed this action to the Superior Court, and we were successful in obtaining a stay of the Board action pending appeal. At the present time we are self-insured as a group by order of the Superior Court.

In principle, what our program does, is to buy a group insurance policy with a large deductible, and the deductible amount is shared within the group. Our retained risk on worker's compensation claims is \$200,000 per occurrence. Above that level, we are insured by an excess insurance company. Corroon & Black/Dawson & Company is our broker and has been since the beginning of our program. Each year they calculate what the commercial insurance premium would be for each of our members, including the individual experience modification for each member. Our Board of Directors then determines what discount, if any, will be allowed to the participants for that year. Discounts in our program have been: 1980-0, 1981-10%, 1982-15%, 1983-15%.

We have an active safety program for our members which is paid for as a cost of our self-insurance program. Claims are administered on a professional basis for us by Scott Wetzel Services. After paying expenses and claims (including reserves for claims not yet paid), we have finished each year with a substantial surplus which is held in trust for our members. This money is retained in the program for a few years in order to make sure we have an adequate reserve on hand, but these savings will be paid back to our members. The ultimate beneficiaries of our program are the electric consumers.

We must have a legislation resolution of our uncertain status this year. We began this session by seeking legislation to specifically authorize group self-insurance. This proposal was vigorously opposed by portions of the insurance industry. The Labor and Commerce Committee fashioned a compromise which you now see as CSSB 66 (L&C).

The compromise basically provides:

- (1) We will give up our status as a self-insured group and become a reciprocal insurer. This will require us to establish and maintain reserves of \$1,125,000 and place us under regulation of the Division of Insurance.
- (2) The reciprocal insurer statutes would be amended to make it possible for us to qualify as a reciprocal, and reciprocals would be relieved of inappropriate cost factors to which they are now subjected.

Section 1 exempts reciprocals from participating in the assigned risk pool. By its very nature a reciprocal is a mutual enterprise which only serves its members. It is inappropriate that reciprocals should be forced to help provide insurance to the high risk businesses in other industries.

Sections 2 and 4 deal only with reciprocals established by municipalities, so I will make no comment on them.

Section 3 reduces the number of participants required to establish a reciprocal from 25 to 2. This is especially important to us because there are only 14 electric cooperatives in Alaska.

Sections 5 and 6 exempt assessable reciprocals organized by municipalities or public utilities from participation in the insurance company guarantee fund. The purpose of the fund is to protect policy holders against loss in case of financial failure by an insurance company. The financial responsibility of an assessable reciprocal is guaranteed by its participants.

The fund could only be called upon to pay the claims for such a reciprocal in the event of bankruptcy of all of its participants. Section 5 exempts these reciprocals from the "benefits" of the fund, and Section 6 exempts them from the costs of the fund.

We think this is a reasonable compromise, and we give it our full support. Please give CSSB 66 a favorable report to the Finance Committee and help us get it enacted.

The only change we recommend is the correction of a printing error on page 2, line 15. Only the comma should be underlined, not the word Alaska.

Sincerely,



David Hutchens
Executive Director

APR 11 1983
Senator Bennett ✓



A policy of service and protection

April 6, 1983

The Honorable Don Bennett and John Sackett
Co-Chairmen, Senate Finance Committee
Alaska State Senate
Pouch Y
Juneau, Alaska 99811

Re: CSSB 66(L&C) An Act relating to insurance.

Dear Senators Bennett and Sackett:

This measure in its current form is very much opposed by us. On the other hand, the areas of our serious concern can be easily remedied by some amendments, in which case the general thrust of the bill would be acceptable. We, therefore, urge the Committee to adopt the recommended amendments if it intends to proceed with this legislation.

BACKGROUND

For reasons, some of which may be valid, the municipal league, or at least several municipalities, have felt it desirable to have statutory authority to establish a means of exchanging insurance contracts among themselves as an alternative to purchasing insurance from commercial insurance markets. At an early stage in the legislative process when the municipality's interest in establishing their own insurance program first became known to us, we suggested using the reciprocal insurer authority already granted in the Insurance Code. They have accepted this recommendation and Senate Bill 66 is the result. Unfortunately in the drafting, several specific exceptions from appropriate obligations imposed on insurers were carved out for the municipal reciprocals, and we believe such is wholly inappropriate.

It is the purpose of this letter to indicate these areas and to point out the responsibilities that every other insurer currently has and ought to have in connection with sustaining the workers' compensation system in this State which even a municipal reciprocal should be required to support.

ASSIGNED RISK POOL

[AS21.39.155 (a) - CSSB 66 (L&C) Page 1, Line 9 -10]

The proposed amendment would exempt all reciprocals from having to participate in the contributions to the assigned risk pool.

Currently, all commercial insurers writing workers' compensation in the State of Alaska are required to pay an assessment to support the assigned risk pool. The amount of the assessment is a pro-rata charge necessary to cover the extent to which losses and expenses exceed the premium collected in the pool. Assessment based on workers' compensation writings by workers' compensation carriers is a logical way to support the pool since it spreads the cost for supporting the undesirable risks among all other employers in the State. Currently, any employer insured in a commercial insurer, including all municipalities which are insured by commercial insurers, are paying indirectly the assessment to support the assigned risk pool.

To the extent that a group of employers are exempted from having to pay their pro-rata share, the burden falls on a smaller population who must then pay a higher assessment. In effect, by exempting the municipal reciprocal from having to pay the assigned risk pool, all other employers are going to have to pay a slightly higher assessment.

We find it totally inequitable and without justification that the municipalities as employers be relieved of any obligation which any other employer is obligated to pay as part of the cost of hiring employees in this State.

Furthermore, because of the way the provision was drafted, all reciprocals are excluded. As drafted, this means that the Timber Insurance Exchange, which is a private commercial reciprocal insurer owned and operated by the loggers, would also be exempted from supporting the assigned risk pool. I believe this was not intended but is the result of an error in drafting.

RECOMMENDATION

Section 1 of the proposed bill be stricken in its entirety.

ALLOWABLE FUNDING

[Section 2 AS21.75.050 (c) - CSSB 66 (L&C) Page 1, Line 15 - 21]

This provision allows only those reciprocals which are formed by two or more municipalities to post a bond in lieu of otherwise admissible assets to capitalize the reciprocal insurer. Frankly, we believe that places the municipalities in the position of establishing an insurance company with little or none of the capital requirements imposed upon any other commercial insurer and is to that degree inequitable. On the other hand, we recognize that municipalities

have a certain financial capability because of their taxing authority which other commercial employers do not have, and therefore, though we would prefer not to see the statutes drafted with authority to post a bond in lieu of cash, will not object to the bill on that ground alone.

On the other hand, there are two amendments that need to be made to this section in order to limit the authority to the specific concessions intended by the legislature:

- A. Arguably, a reciprocal could be formed by two or more municipalities and then insure non-municipalities as part of their business operations. Such ought not to be permitted, thus, I would urge the following recommended amendment; and,
- B. The bond should be permitted only for the initial capital and not for any of its reserves or surplus.

To meet these points, I would urge the following change in language:

"A domestic reciprocal insurer formed under this chapter by and insuring only, two or more municipalities shall (1) comply with (a) of this section or post a bond for an amount equal to the capital that would be required of a domestic stock insurer writing the same lines of insurance for which the reciprocal insurer seeks to be authorized, and (2) maintain a surplus in admitted assets of \$250,000 or a surplus sufficient to operate the reciprocal insurer for one year, whichever is greater." [Emphasis on language to be added.]

EXEMPTION OF PUBLIC UTILITIES FROM GUARANTEE ASSOCIATION.

[Section 5 AS21.80.180 (5) - Page 2, Line 6 and Section 6 AS21.80.180 (6) - Page 2, Line 14.]

These sections deal with the Guarantee Association, which is a facility established by Alaskan law to protect workers whose employer has acquired workers' compensation insurance from an insurance facility which ultimately becomes insolvent. The protection is provided through the Guarantee Association's ability to assess all other workers' compensation insurers doing business in the State pro-rata to their workers' compensation insurance writings to provide the funds necessary to pay the claims of the insolvent insurer.

The two sections in that law referred to in the bill define:

- A. Which insurers are protected by the Insolvency Fund and,
- B. Which insurers must contribute to the assessment in the event another insurer becomes insolvent.

We pointed out to the Senate Labor and Commerce Committee that either the municipal insurer must be included both as a contributor to the assessment and be protected by the Guarantee Association or excluded from both of those. The Labor and Commerce Committee agreed and elected to exclude the municipality from both the assessability and coverage provisions of the Guarantee Association. We support their choice in this regard, however, in creating the exclusion from the application of the Guarantee Association for reciprocals formed by municipalities they added reciprocals formed by public utilities.

We absolutely oppose the exclusion of a reciprocal formed by any commercial enterprise from the obligation imposed upon any other commercial insurer doing business in the State. There is no reason why a business which is operating in this State owned by stockholders who have formed a company for profit, should be excluded from sharing in the obligations that all other corporations formed for profit are obligated to support. All the insured employers of any other commercial insurer indirectly contribute to the Guarantee Association assessment by virtue of that cost being loaded into their premium. It creates a lack of competitive parity when a reciprocal can be formed by a specially defined group and be excluded from having to share in that cost.

RECOMMENDATION

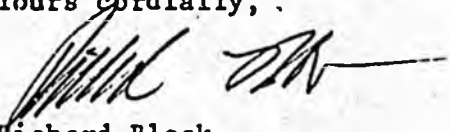
We would propose that the language "or public utilites" be stricken from both line 6 and line 14 of page 2 of the bill.

As a further matter of clarity, on line 5 and line 14 the language should be modified so that it reads as follows:

"Reciprocal insurer formed by and insuring only municipalities."

We would appreciate your favorable consideration of these recommendations.

Yours cordially, .


Richard Block
President

RB/krl

hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors inside and outside this state;

(3) the systems of expense provisions included in the rates for use by an insurer or group of insurers may differ from those of other insurers or group of insurers to reflect the requirements of the operating methods of the insurer or group of insurers with respect to any kind of insurance, or with respect to a subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

(4) risks may be grouped by classifications for the establishment of rates and minimum premiums; classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both; the standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses;

(5) in the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during a period of not more than the most recent five-year period for which experience is available;

(6) when there is an established program to inspect new and existing dwellings and the program has been certified by the director as likely to reduce the incidence of fires in inspected dwellings, then in any rate plan used in this state, dwellings which have been found by the inspection to meet the standards established by the program shall have credits applied to the rate in amounts approved by the director.

(b) Except to the extent necessary to meet the provisions of (a)(1) of this section, uniformity among insurers in matters within the scope of this section is neither required nor prohibited. (§ 1 ch 120 SLA 1966; am §§ 1, 2 ch 34 SLA 1977)

Effect of amendments. — The 1977 amendment, in subsection (a), deleted "and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a

period of not less than the most recent five-year period for which experience is available" from the end of paragraph (2) and added paragraphs (5) and (6).

Sec. 21.39.155. Assigned risk pool. (a) The director may require carriers, as a condition of writing a line of insurance dealing with workers' compensation, to participate in an assigned risk pool if the director finds that mandatory carrier participation is in the public interest.

(b) The assigned risk pool and the procedures to be followed in administering the pool shall be established by regulation. (§ 1 ch 252 SLA 1976; am § 60 ch 94 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "workers' compensation" for "workmen's compensation."

Sec. 21.39.175. Statistics. Any insurer providing malpractice coverage for health care providers shall collect, maintain and report information concerning claims against health care providers which it insures. The information shall be on forms prescribed by the director, and shall be sufficient to enable a proper determination of losses for rate making and to identify causes and sources of loss for loss control. At least annually the insurer shall report to the director the number and amount of claims filed, reserved, paid, settled and adjudicated during the year, the premiums paid to and the expenses incurred by the corporation during the year. This report shall be available to the public. The director may require that supplemental reports include the names of insured health care providers and the claimants; however, no reports which become available to the public may include the names of health care providers or claimants or information that will permit by inference the identity of specific health care providers or claimants. All statistics, including the supplemental reports, shall be made available to the State Medical Board. (§ 38 ch 177 SLA 1978)

Editor's notes. — As to the purpose of the 1978 amendatory act, see § 1, ch 177, SLA 1978 as amended by § 7, ch. 46, SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

Sec. 21.39.180. Definitions. In AS 21.39.010 — 21.39.180 "dwelling" means a residential structure containing not more than four family living units. (§ 3 ch 34 SLA 1977)

Chapter 42. The Insurance Contract.

Section	Section
75. Reimbursement of losses	350. [Repealed]
80. Power to contract — Purchase of insurance by minors	355. Coverage for cost of services provided by nurse midwives
130. Grounds for disapproval	360. [Repealed]
320 — 340. [Repealed]	370. Separate accounts
345. Required provision for coverage for newly born children	

Sec. 21.42.040. Interest of named insured.

NOTES TO DECISIONS

Applicability of section. — See Moran v. Kenai Towing & Salvage, Inc., Sup. Ct. Op. No. 1056 (File Nos. 1924, 1934), 523 P.2d 1237 (1974).

property damage, to which the maximum and minimum insured amounts apply;

(5) the maximums provided for in column (F) are net of applicable reinsurance;

(6) the deposit of surplus in the amount specified in columns (G) and (H) must thereafter be maintained unimpaired; the deposit is subject to the provisions of AS 21.24.010 — 21.24.130. (§ 1 ch 120 SLA 1966; am § 1 ch 127 SLA 1970; am § 60 ch 94 SLA 1980)

Effect of amendments. — The 1970 amendment, in subsection (b), added "Marine, Wet Marine, and Transportation" at the end of column (A), added "50" at the end of column (B), added "50" at the end of column (C), added "annual" at the end of column (D), added "\$1,000" at the end of column (E), added "\$25,000" at the

end of column (F), added "\$100,000" at the end of column (G), substituted "(6)" for "(7)" in column (H) and added "\$200,000" at the end of that column.

The 1980 amendment substituted "Workers'" for "Workmen's" in column (A) of subsection (b).

Sec. 21.69.490. Dividends to stockholders.

Cross references. — For exception to the requirements of this section, see AS 21.22.100(c).

Chapter 75. Reciprocal Insurers.

Article

1. General Provisions (§§ 21.75.010 — 21.75.290)
2. Cooperative Insurance Coverage (§§ 21.75.300 — 21.75.330)

Article 1. General Provisions.

Section	Section
30. Name, suits	
50. Surplus funds required	
55. Surplus funds for cooperative insurers	
230. Nonassessable policies	

Sec. 21.75.030. Name, suits. (a) A reciprocal insurer shall (1) have and use a business name; the name shall include the word "reciprocal" or "interinsurer" or "interinsurance" or "exchange" or "underwriters" or "underwriting" or "association";

(2) sue and be sued in its own name.

(b) In addition to the requirements of (a) of this section, a cooperative insurer organized under AS 21.75.300 — 21.75.330 shall include the word "cooperative" in its name. (§ 1 ch 120 SLA 1966; am § 3 ch 150 SLA 1978)

Effect of amendments. — The 1978 amendment added subsection (b).

Sec. 21.75.050. Surplus funds required. (a) A domestic reciprocal insurer formed in accordance with the provisions of AS 21.75.010 —

21.75.330 shall have and maintain a surplus no less than an amount equal to the total of the capital and one-half of the surplus that would be required of a domestic stock insurer writing the same lines for which the reciprocal insurer seeks to be authorized.

(b) A foreign reciprocal insurer shall have and maintain a surplus no less than an amount equal to the total capital and surplus that would be required of a domestic stock insurer writing the same lines for which the reciprocal seeks to be authorized. (§ 1 ch 120 SLA 1966; am § 4 ch 150 SLA 1978)

Effect of amendments. — The 1978 amendment rewrote this section.

Sec. 21.75.055. Surplus funds for cooperative insurers. A cooperative insurer organized under AS 21.75.300 — 21.75.330, if it has otherwise complied with the applicable provisions of AS 21.75.010 — 21.75.330, may be authorized to transact insurance if it has and maintains surplus funds equal to one-half of the capital required for a domestic reciprocal insurer under AS 21.75.050(a) and such additional surplus as the director considers sufficient. (§ 5 ch 150 SLA 1978)

Sec. 21.75.230. Nonassessable policies. (a) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the minimum capital and surplus required of a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee, the director shall issue his certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this state, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this state for as long as all the surplus remains unimpaired.

(b) Upon impairment of the surplus, the director shall immediately revoke the certificate. The revocation shall not render subject to contingent liability a policy then in force and for the remainder of the period for which the premium has theretofore been paid; but after the revocation no policy may be issued or renewed without providing for contingent assessment liability of the subscriber.

(c) The director may not authorize a domestic reciprocal insurer to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualifies to and does extinguish the liability of all its subscribers and in all the policies for all kinds of insurance transacted by it. Except, that if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of those subscribers which may acquire the policies in that state, and need not extinguish the contingent liability applicable to policies theretofore in force in that state. (§ 1 ch 120 SLA 1966; am § 6 ch 150 SLA 1978)

of a stock insurer for authority to transact a like combination of kinds of insurance. (§ 1 ch 120 SLA 1966)

~~Sec. 21.75.060. Organization of reciprocal insurer. (a) Twenty-five or more persons domiciled in this state may organize a domestic reciprocal insurer and make application to the director for a certificate of authority to transact insurance.~~

(b) The proposed attorney shall fulfill the requirements of and shall execute and file with the director when applying for a certificate or authority, a declaration setting out

(1) the name of the insurer;

(2) the location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained in this state;

(3) the kinds of insurance proposed to be transacted;

(4) the names and addresses of the original subscribers;

(5) the designation and appointment of the proposed attorney and a copy of the power of attorney;

(6) the names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;

(7) the powers of the subscribers' advisory committee, and the names and terms of office of the members;

(8) that all money paid to the reciprocal (insurer) shall, after deducting any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;

(9) a copy of the subscribers' agreement;

(10) a statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six months at an adequate rate filed with and approved by the director;

(11) a statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by § 50 of this chapter is on hand;

(12) a copy of each policy, endorsement, and application form it then proposes to issue or use.

(c) The declaration shall be acknowledged by the attorney in the manner required for the acknowledgment of deeds. (§ 1 ch 120 SLA 1966)

Sec. 21.75.070. Certificate of authority. (a) The certificate of authority of a reciprocal insurer shall be issued to its attorney in the name of the insurer.

(b) The director may refuse, suspend or revoke the certificate of authority, in addition to other grounds, for failure of the at-

Sec. 21.80.170. Termination and distribution of funds. (a) The commissioner shall by order terminate the operation of the Alaska Insurance Guaranty Association as to any kind of insurance covered by AS 21.80.010 — 21.80.190 with respect to which he has found, after hearing, that there is in effect a statutory or voluntary plan which

(1) is a permanent plan which is adequately funded or for which adequate funding is provided; and

(2) extends, or will extend to the Alaska policyholders and residents protection and benefits with respect to insolvent insurers not substantially less favorable and effective to the policyholders and residents than the protection and benefits provided with respect to the kinds of insurance under AS 21.80.010 — 21.80.190.

(b) The commissioner shall by the same order authorize discontinuance of future payments by insurers to the Alaska Insurance Guaranty Association with respect to the same kinds of insurance so long as the assessments and payments continue, as necessary, to liquidate covered claims of insurers adjudged insolvent before the order and the related expenses not covered by the other plan.

(c) If the operation of the Alaska Insurance Guaranty Association is terminated as to all kinds of insurance otherwise within its scope, the association, as soon as possible thereafter, shall distribute the balance of money and assets remaining (after discharge of the functions of the association with respect to prior insurer insolvencies not covered by the other plan, together with related expenses) to the insurers which are then writing in this state policies of the kinds of insurance covered by AS 21.80.010 — 21.80.190 and which had made payments to the association, pro rata upon the basis of the aggregate of the payments made by the respective insurers during the period of five years next preceding the date of the termination order. Upon completion of this distribution with respect to all of the kinds of insurance covered by AS 21.80.010 — 21.80.190, AS 21.80.010 — 21.80.190 shall be considered to have expired. (§ 1 ch 121 SLA 1970)

Sec. 21.80.180. Definitions. In AS 21.80.010 — 21.80.190, unless the context requires otherwise,

(1) "account" means any one of the three accounts created by AS 21.80.040;

(2) "association" means the Alaska Insurance Guaranty Association;

(3) "commissioner" means the commissioner of the Department of Commerce or his representative;

(4) "covered claim" means an unpaid claim, including one of unearned premiums, which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which AS 21.80.010 — 21.80.190 apply issued by an insurer, if the insurer becomes an insolvent insurer after August 6, 1970, and (A) the claimant or insured is a resident of this state at the time of the insured event;

or (B) the property from which the claim arises is permanent, and located in this state; "covered claim" does not include any amount due a reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise;

(5) "insolvent insurer" means an insurer

(A) authorized to transact insurance in this state, except the Medical Indemnity Corporation of Alaska and the Health Care Providers Joint Underwriting Association established under AS 21.88.010 — 21.88.900, either at the time the policy was issued or when the insured event occurred; and

(B) determined to be insolvent by a court of competent jurisdiction;

(6) "member insurer" means a person, except the Medical Indemnity Corporation of Alaska and the Health Care Providers Joint Underwriting Association established under AS 21.88.010 — 21.88.900; who

(A) writes any kind of insurance to which AS 21.80.010 — 21.80.190 apply under AS 21.80.020 including the exchange of reciprocal or inter-insurance contracts, and

(B) is licensed to transact insurance in this state;

(7) "net direct written premiums" means direct gross premiums written in this state on insurance policies to which AS 21.80.010 — 21.80.190 apply, less return premiums thereon and dividends paid or credited to policyholders on direct business; "net direct written premiums" does not include premiums on contracts between insurers or reinsurers. (§ 1 ch 121 SLA 1970; am §§ 43, 44 ch 102 SLA 1976)

Cross references. — As to constitutionality of ch. 102, SLA 1976, see notes to AS 09.55.536 and Alas. Const., art. II, § 14.

Effect of amendments. — The 1976 amendment inserted the language beginning "except the Medical Indemnity Corporation of Alaska" and ending "under AS 21.88.010 — 21.88.900" in paragraph (5)(A) and in the introductory language of paragraph (6).

Editor's notes. — Section 46, ch. 102, SLA 1976, provides: "AS 01.10.030 applies to this Act except that if any portion of AS 21.88.110 — 21.88.160 is held invalid all of AS 21.88.110 — 21.88.160 shall be void and the Medical Indemnity Corporation of

Alaska shall assume all duties and liabilities incurred by the Health Care Providers Joint Underwriting Association before the declaration of invalidity; and except that if the requirement that health care providers purchase medical malpractice insurance from the Medical Indemnity Corporation of Alaska is found to be invalid, secs. 41, 42, 43, and 44 of this Act are void; however, the Medical Indemnity Corporation of Alaska and the Health Care Providers Joint Underwriting Association shall continue to discharge and assess to pay claims incurred before the declaration of invalidity." AS 21.88.110 — 21.88.160 were repealed by § 40, ch. 177, SLA 1978.

NOTES TO DECISIONS

Applicability of AS 21.80.010 — 21.80.190. — AS 21.80.010 — 21.80.190 were applicable to a claim against a policyholder for personal injuries as a result of an automobile accident from the time his insurer became insolvent. King v.

Jordan, Sup. Ct. Op. No. 1956 (File Nos. 3400, 3401, 3673), 601 P.2d 273 (1979).

AS 21.80.010 — 21.80.190 on their face limits "covered claims" to those asserted by claimants or insureds. White v. Alaska Ins. Guar. Ass'n, Sup. Ct.

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