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COMMITTEE REPORT
SENATE

FURTHER:

Date _____

Mr. President

The Committee on _____ considered _____

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation



OFFICIAL BUSINESS

ALASKA STATE LEGISLATURE - SENATE
COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

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MEMORANDUM

TO: Senator Bill Ray, Chair
Senate Judiciary Committee

FROM: Senator Dick Eliason *Dick*

DATE: May 8, 1984

RE: SB 546 - "An Act relating to automobile service corporations"

CSSB 546 (L & C) is intended to permit automobile service corporations (auto clubs) to form and operate in Alaska. The Division of Insurance was instrumental in drafting this legislation and strongly supports the concept encompassed in CSSB 546.

A virtually identical bill, HB 704, is currently in Senate Rules having passed the House 36 - 0 on April 23. An immediate effective date clause included in the Senate version is the only difference between these two bills. At the request of Steve Silver, a representative of the American Automobile Association, the Labor and Commerce Committee passed a committee substitute which would enable auto clubs to organize in the state as soon as this legislation is passed. Unfortunately, the immediate effective date clause could not have been added to HB 704 as it would have required a change in title.

Automobile
Service
Corporations

SENATE BILL NO. 546, by the Labor and Commerce Committee.
Sets out statutory requirements for automobile service corporations under Title 21 (Insurance):

--Would require a person providing or intending to provide automobile service corporation services to be incorporated as a nonprofit corporation and be currently authorized as an automobile service corporation under a certificate of authority issued by the Director of the Division of Insurance. Articles of incorporation are to be submitted to the Director before they are filed with the Commissioner of Commerce and Economic Development, and the Commissioner is not allowed to file the articles or amendments unless the Director's approval is endorsed.

--The Director is not allowed to issue a certificate of authority and is required to revoke an existing certificate unless the corporation, if newly formed, possesses sufficient available working funds to pay all reasonably anticipated costs 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. The auto service corporation must post a bond in the amount of \$50,000 with the Director and must fulfill all other applicable statutory requirements.

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--Outlines procedures for applying for a certificate of authority through the Division of Insurance. Applicants are required to file articles of incorporation, a copy of the bylaws, copies of proposed subscribers' contracts, financial statements, the required bond, and a copy of any other relevant document reasonably requested by the Director of the Division of Insurance.

--Requires an automobile service corporation to 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 but 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 percent 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." The reserves constitute a liability of the corporation in a determination of its financial condition. Instead of the reserves required, and the bond required, the auto service corporation may file a bond in the amount of \$250,000.

--Requires the corporation to establish and maintain complete and accurate records and accounts, and lists other provisions of insurance statutes that apply to automobile service corporations. Defines terms used.

Does not provide for an effective date (becomes law 90 days following Governor's signature).

This proposal is intended to permit automobile service corporations (auto clubs) to form and operate in Alaska. Since automobile service corporations 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 automobile service corporation do not need to be as stringent as for a normal insurer and support the concept encompassed in SB 546. This bill is very similar to CSHB 704(L&C).

Sec. 21.59.010. Page 1, lines 10-18.

This section requires that an automobile service corporation 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 automobile service corporation.

Sec. 21.59.020. Page 1, lines 19-29 and page 2, lines 1-7.

This section requires that the automobile service corporation 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 automobile service corporation is a domestic.

Sec. 21.59.030. Page 2, lines 8-22.

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

Sec. 21.59.040. Page 2, lines 23-29 and page 3, lines 1-21.

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. On page 3, line 10, the first of three differences between the Senate and House versions of this bill appear. SB 546 uses "four fiscal years" while CSHB 704(L&C) uses "three fiscal years". The division has no preference on this item.

Sec. 21.59.050. Page 3, lines 22-29 and page 4, lines 1-14.

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 automobile service corporation will be at risk are very low for each subscriber, the bond is a good substitute.

Sec. 21.59.060. Page 4, lines 15-21.

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. Page 4, lines 22-29 and all of page 5.

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 automobile service corporations. The second difference between the Senate and House versions of this bill appears on page 4, line 28. The Senate version considers automobile service corporations "mutual insurers", while the House version considers them "stock insurers". The division prefers "stock insurers" since there are impediments in the Title for this kind of corporation when considered a "mutual insurer". The third difference between the Senate and House versions of this bill appears on page 5, line 3. In the Senate version AS 21.09.100 - 21.09.260 apply to automobile service corporations, while in the House version AS 21.09.100, and AS 21.09.120 - 21.09.210. The division prefers the latter since AS 21.09.110 and AS 21.09.220 - 21.09.260 are not appropriately applied to an automobile service corporation.

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 21.09.110. This section deals with application for a certificate of authority. It should be removed since Sec. 21.59.040 adequately deals with the subject.

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 21.09.220-260. These sections deal with the countersignature law and acts connected with a business conducted through an agency system. Since this is not the way that automobile service corporations ordinarily conduct business, the sections should be removed.

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.

SUGGESTED AMMENDMENTS TO SB 546.

On page 4, line 28, change the word "mutual" to read "stock"

On page 5, line 4, change "AS 21.09.100 - 21.09.260" to read "AS 21.09.100 and AS 21.09.120 - 21.09.210".

Proposed Amendments