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STATE OF ALASKA THE LEGISLATURE

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JUNEAU, ALASKA 99811
907-465-3500

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	4/2/86	1:30 pm
" "	4/3/86	1:30 pm

**HOUSE
COMMITTEE REPORT**

(7)

Date referred: 3/5/86

FURTHER REFERRALS:

DATE: _____

The JUDICIARY Committee has considered HB 476

"An Act relating to automobile insurance premiums."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 476 (JUD) same title
- new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

ROD E. CRADOCK

SIGNING OTHER RECOMMENDATIONS:

Don Cloherty - NO REC

W. W. Miller
Chairman

Bannister
4/2/86 ✓

Original sponsor: M.M.Miller
by request

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 476 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

8 * Section 1. AS 21.36.420(d) is amended to read:

9 (d) An insurer that increases the premium or adds a surcharge to
10 an automobile insurance policy shall give written notice of the in-
11 crease or surcharge at least 15 days before it takes effect, stating
12 the reason for the change and the right of appeal under AS 21.39.090.
13 This subsection does not apply to a

14 (1) premium increase resulting from a change requested by
15 an insured, if the insured is notified at the time the request is made
16 that the amount of the insured's premium will change as a result of
17 the requested policy change; or

18 (2) rate approved by the director if the insurer gives
19 written notice of a premium increase to the insured at least 15 days
20 before the increase takes effect.

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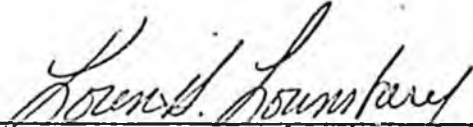
29

HB 476: "An Act relating to automobile insurance premiums."

The Department is in favor of this legislation. This proposal is intended to correct a deficiency in Ch 62 SLA 1984. The sponsor of that bill was attempting to provide an appeal mechanism for persons aggrieved by automobile insurance rate increases resulting from surcharges for an accident or violation appearing on that person's driving record, and which is alleged to be inappropriate.

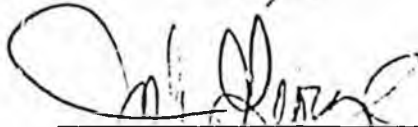
AS 21.36.420(d) was structured to require a notice of all premium increases by an insurer. It is not clear whether a notice is required on increases resulting from other than a change in the individual driving record. Such increases are subject to rate review and approval by the State before use.

This bill would clarify the requirement for notice by specifying the circumstances in which the notice is necessary. It does provide recourse for surcharges or increases that are not appropriate because a person was not convicted of a violation or at fault in an accident.



Loren H. Lounsbury, Commissioner
Department of Commerce & Economic
Development

Date: 3/3/86



John L. George, Director of Insurance

Date: 3/3/86

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* FAIRBANKS OFFICE
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*** VALDEZ OFFICE

March 5, 1986

Representative Mike M. Miller
Alaska State Legislature
Pouch Y (MS 3100)
Juneau, Alaska 99811

Dear Representative Miller:

On Monday, March 3, 1986, the Committee Substitute for HB476 was referred out of the Community and Regional Affairs Committee to the Judiciary Committee. On behalf of State Farm Insurance Company and Allstate Insurance Company, I would urge the Judiciary Committee take prompt action on this piece of legislation. We have before written to you regarding the ambiguity we seek to clarify with this piece of legislation, and our hope is this clarification will be noncontroversial and that it can be resolved this session. We enclose herewith a self explanatory memorandum we sent to Representative Goll regarding this problem, and we thank you in advance for your assistance.

Sincerely,

HUGHES THORSNESS GANTZ
POWELL & BRUNDIN

By: 
Michael L. Lessmeier

Encl.
MLL/mf
0439M

MEMORANDUM

TO: Representative Peter Goll
Chairman of Community and Regional Affairs Committee

FROM: Michael L. Lessmeier

RE: HB 476

DATE: March 3, 1986

I am writing this memorandum on behalf of State Farm Insurance Company and Allstate Insurance Company regarding A.S. 21.36.420, which was added by the legislature in 1984 via HB 16. This statute deals with premium increases in automobile insurance policies and provides as follows:

(a) An insurer may not increase the premium on an automobile policy unless the increase applies to all insurers of the same class.

(b) An insurer may not increase the premium or add a surcharge to an automobile insurance policy because of the issuance of a citation for a moving traffic violation unless the insured or another person who resides in the insured's household and is covered by the policy has been convicted of the violation.

(c) The director shall adopt regulations to determine circumstances under which an insurer may increase the premium or add a surcharge to an automobile insurance policy.

(d) An insurer that increases the premium or adds a surcharge to an automobile insurance policy shall give written notice of the increase or surcharge at least fifteen (15) days before it takes affect, stating the reason for the change and the right of appeal under A.S. 21.39.090.

A.S. 21.36.42(a)-(d). The difficulty presented by this legislation is the ambiguity in subsection (d). If subsection (d) is read literally, it could be interpreted to require an insurer to send an insured a statement of reasons for a change in premium and a statement of notice of the right to appeal under A.S. 21.39.090 every time a premium is increased, regardless of the reason for the premium increase.

Such an interpretation would require an insurer to send a statement of reasons for the change and a notice of right to appeal whenever a general rate increase is approved by the Division of Insurance, or whenever an insured adds cars, increases coverage, or adds a driver. We do not believe this is what the legislature intended when enacting this statute.

The legislative history we have been able to obtain indicates the focus of the original bill was where an insurer increased the premium of an insured because the insured was either involved in an at fault accident or because of a citation for a moving violation. We found nothing to indicate the legislative intent was to create a blanket requirement of notice and right to appeal any time an insurance premium is increased. Such a requirement would have a significant practical effect on our ability to provide the kind of service we seek to provide. For example, if subsection (d) were interpreted to require written notice of the increase at least fifteen (15) days before it takes effect, stating the reason for the change and the right of appeal, we would be unable to provide immediate coverage for our policy holders who wanted to add a new driver, increase their present coverage, or purchase a new car. If we were to follow the literal interpretation of the present statute, we would not be able to accept coverage in either instance until at least fifteen (15) days after the request in order to assure our insured was informed of his or her proper statutory rights.

Another instance in which difficulties are created is where there is a general rate increase approved by the Division of Insurance. In such a case, it would be illegal for us to charge our insured anything but the filed and approved rate. To suggest by the means of a notice that our insured has a right to appeal a general rate increase is

misleading and could potentially generate wasteful litigation and/or administrative hearings.

In an effort to clarify this ambiguity, we discussed this problem with Representative Miller, and HB 476 was introduced. After discussing this with you and your staff, we have prepared a Committee Substitute for HB 476 which in effect requires an insurer to give written notice of a premium increase at least (15) days before the increase takes effect in all situations except where our insured initiates the change in premium. The notice and the statement of the insured's right of appeal is required in all situations except when a rate increase is approved by the Division of Insurance or where the increase results from a change requested by an insured.

We are only aware of two situations in which an insurer would unilaterally increase a premium because of the driving experience of the insured, i.e., where the increase is based upon an accident or a conviction of a moving traffic violation. However, the Committee Substitute for HB 476 would require notice and the statement of the right of appeal in not just these two situations, but any increase except an increase resulting from a change requested by an insured or a rate increase approved by the Division of Insurance. We believe this Committee Substitute will resolve the ambiguity that presently exists in A.S. 21.36.420(d) without in any way effecting the purpose the statute was intended to accomplish. We urge its prompt passage.

MLL/mf
0426M

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 476
Title: Automobile Insurance Premium

FISCAL DETAIL

Agency Affected: Division of Insurance
BRU: _____

Sponsor: M. M. Miller
Requestor: John L. George
Date of Request: February 19, 1986

Components: _____

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary.

Prepared by: John L. George, Director
Division: DIVISION OF INSURANCE

Phone: 465-2515
Date: February 19, 1986

Approved by Commissioner: [Signature]
Agency: Commerce and Economic Development

Date: February 19, 1986

Distribution (by Agency preparing fiscal note):

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

COMMUNITY AND REGIONAL AFFAIRS
Standing Committee
March 3, 1986
3:00 p.m.

MEMBERS PRESENT

Representative Peter Goll, Chair
Representative Kay Wallis, Vice Chair
Representative Niilo Koponen
Representative Walt Furnace
Representative Andre Marrou
Representative Randy Phillips
Representative Max Gruenberg

COMMITTEE CALENDAR

HB 476 "An Act relating to automobile insurance premiums."

WITNESS REGISTER

Michael Lessmeier
Allstate/State Farm
One Sealaska Plaza
Suite 203
Juneau, Alaska 99801
Telephone: 586-5912
Position Statement: Supports HB 476 amended.

Don Koch
Division of Insurance
Department of Commerce
and Economic Development
Juneau, Alaska 99811
Telephone: 465-2577
Position Statement: Supports HB 476 amended.

PREVIOUS ACTION

HB 476:	DATE	PAGE	ACTION
	01/15/86 (H)	1799	READ THE FIRST TIME WITH REFERRAL(S) C&RA JUDICIARY RULES

ACTION NARRATIVE

TAPE #67 SIDE ONE
Recording

Number 001

Chairman Goll called the meeting to order at 3:07 p.m. He asked Michael Lessmeier to testify on behalf of the sponsor.

Number 020

Michael Lessmeier testified on behalf of State Farm Insurance and Allstate Insurance Company regarding AS 21.36.420 which he said was added by the legislature in 1984 via HB 16. A difficulty presented by this legislation is an ambiguity in subsection (d).

If subsection (d) is read literally, it could be interpreted to require an insurer to send an insured a statement of reasons for a change in premium and a statement of notice of the right to appeal under AS 21.39.090 every time a premium is increased regardless of the reason for the premium increase.

Such an interpretation would require an insurer to send a statement of reasons for a change and a notice of right to appeal whenever a general rate increase is approved by the Division of Insurance, or whenever an insured adds cars, increases coverage, or adds a driver. They do not believe this is what the legislature intended when enacting this statute.

Legislative history was researched and if they were to follow the literal interpretation of the present statute, they would not be able to accept coverage in either instance until at least fifteen (15) days after the request in order to assure their insured was informed of his or her proper statutory rights. He discussed difficulties created when there is a general rate increase approved by the Division of Insurance.

In an effort to clarify this ambiguity, they discussed this problem with Representative Mike Miller of Juneau and HB 476 was introduced. Following discussion with this committee, they have prepared a committee substitute for HB 476 which in effect requires an insurer to give written notice of a premium increase at least fifteen (15) days before the increase takes effect in all situations except where their insured initiates the change in premium. The notice and the statement of the insured's right of appeal

is required in all situations when a rate increase is approved by the Division of Insurance or where the increase results from a change requested by an insured.

They believe this committee substitute will resolve the ambiguity that presently exists in AS 21.36.420(d) without in any way effecting the purpose the statute was intended to accomplish. They urge its prompt passage.

Number 082

Representative Koponen moved to adopt committee substitute for HB 476. There were no objections.

Number 105

Chairman Goll suggested language to the committee substitute that subsection (d) does not apply to the premium increase resulting from an automobile insurance policy change requested by the insured where the insured is given written notice of the impact on premiums of this policy change at the time the request is made.

Number 162

Chairman Goll continued suggesting language on line 14, after the word "insured." This subsection does not apply to a premium increase resulting from an automobile insurance policy change requested by the insured, where the insured is notified of the impact on premiums of this policy change at the time the request is made.

Number 183

Representative Koponen moved for adoption of the amendment. There were no objections.

Number 200

Chairman and committee worked on rephrasing the same language in the amendment.

Number 215

Don Koch, Division of Insurance, noticed the Department of Commerce position paper supporting HB 476. This proposal is intended to correct a deficiency in Chapter 62 SLA 1984. The sponsor of that bill was attempting to provide an appeal mechanism for a person aggrieved by automobile insurance rate increases resulting from surcharges for an accident or violation appearing on that person's driving record, and which is alleged to be inappropriate.

This bill would clarify the requirement for notice by specifying the circumstances in which the notice is necessary and the scope of notice required. It does provide recourse for surcharges or increases that are not appropriate because a person was not convicted of a violation or at fault in an accident. They do not object to the notice or premium increase on approved rate filings because it is a fair thing to do. It does generate additional cost for the insurer which will ultimately be passed along to the consumer. It is, however, a reasonable and fair requirement.

Number 220

Chairman Goll asked Mr. Koch to respond to the amendment adopted to the committee substitute. Discussion ensued on written notice and notice of appeal and the burden to the insurer.

Number 310

Chairman Goll asked Mr. Koch for his recommendations on the amendment language. Mr. Koch suggested that he would not place the notice burden on the insurer when the insured is seeking a change. This language may impede the ability of the insured to get a premium change.

Number 330

Chairman Goll suggested the following: This subsection does not apply to a premium increase resulting from an automobile insurance policy change requested by the insured, if the insured is notified at the time the request is made whether an impact on premiums will result from this policy change. This subsection does not apply to a rate increase approved by the director if the insurer gives written notice of the rate increase to the insured at least fifteen (15) days before the rate increase takes affect.

Number 343

Chairman Goll addressed the amended committee substitute and asked if there were any objections. There were no objections from committee, the department or the insurance companies.

Number 359

Don Koch stated that what the committee has done with the notice requirement is fair and the amendment leaves the insured in a position where he is able to negotiate.

Number 392

Representative Marrou moved to pass CSHB 476 amended out of committee with individual recommendations. There were no objections.

Number 395

The meeting was adjourned at 3:40 p.m.

Corrected amendment language: This subsection does not apply to a (1) premium increase resulting from a change requested by an insured, if the insurer notifies the insured at the time the request is made that the amount of the insured's premium will change as a result of the requested policy change; or (2) rate increase approved by the director if the insurer gives written notice of the rate increase to the insured at least 15 days before the rate increase takes affect.

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** JUNEAU OFFICE
*** VALDEZ OFFICE

May 7, 1985

Representative Mike Miller
Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Re: AS21.36.420 HB16

Dear Representative Miller:

I am writing to you on behalf of State Farm Insurance Co. and Allstate Insurance Co regarding AS 21.36.420, which was added by the legislature in 1984 via HB 16. This bill deals with premium increases in automobile insurance policies, and we enclose a copy of this bill as enacted for your information.

We are writing to you because, as we have before indicated, there is an ambiguity in Subsection D. Subsection D if read literally, could be interpreted to require an insurer to send an insured a statement of reasons for a change in premium and a statement of the notice of right to appeal under AS 21.39.090 every time a premium is increased, regardless of the reason for the premium increase. This in effect would require an insurer to send a statement of reasons for the change and a notice of right to appeal every time a general rate increase is approved by the Division of Insurance, an insured adds cars or moves to an area where premiums are higher. We do not believe this was the intent of the legislation, for such an interpretation would in effect require an insurer to give a written notice of an increase, the reasons for the increase, and a notice of right to appeal in cases where the rate has already been approved by the Division of Insurance.

We do not believe this was the intent of this legislation. In fact, the legislative history we have been able to obtain indicates the focus of the original bill was where an insurer increased the premium of the insured because the insured was either involved in an at fault accident or because of a citation

HUGHES THORSNESS GANTZ POWELL & BRUNDIN
ATTORNEYS AT LAW

for a moving violation. We have found nothing to indicate the legislative intent was to create a blanket requirement of notice and a right to appeal any time an insurance premium is increased.

We believe the ambiguity in this section could be cured simply by tying subsection D to subsection B, to make it clear the notice of increase, stating the reason for the change and the right of appeal, need only be sent in those situations to which the section is addressed, i.e. where a premium is added because of the issuance of a citation for a moving traffic violation to either the insurer or another person who resides in the insured's household and is covered by the policy.

Senator Rodey had suggested we correct this ambiguity through the Revisor's Bill this past session, and the Revisor was willing to do so, if your approval could be obtained, but your staff indicated you felt it more appropriate to correct this legislation through a separate bill, and that you would sponsor such a bill this next session. We have enclosed herewith a proposed draft that would accomplish this correction. We have discussed this with the Division of Insurance and they have indicated they agree the legislation does pose a problem which should be corrected, and with this approach in solving the problem.

We would be most happy to discuss in further detail the difficulties posed by this ambiguity if it would be helpful to you, and we of course are willing to provide any further information on this matter you desire.

Sincerely,

HUGHES THORSNESS GANTZ
POWELL & BRUNDIN

By: _____
Michael L. Lessmeier

Enclosure
MLL/mf

HUGHES THORSNESS GANTZ
POWELL & BRUNDIN

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* FAIRBANKS OFFICE
** JUNEAU OFFICE
*** VALDEZ OFFICE

February 21, 1986

Representative Peter Goll
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: HB 476

Dear Representative Goll:

After our conversation on Tuesday, I contacted my clients and discussed with them the concerns you had regarding HB 476 as it is presently written. We are not aware of any occurrences other than those set forth in the bill, i.e. accident or conviction for moving traffic violation, which would result in an insurer unilaterally increasing the premium of a single insured. I have since confirmed this with the Division of Insurance. There are, of course, situations in which a premium is increased to a class of individuals, for example where the loss experience of a particular vehicle goes up, but those increases are applied across the board to every member of the class. About the only other instance we are aware of that could possibly fall within the area of concern expressed by you is where an insured has a change in marital status and the premium is adjusted accordingly. In this instance, the information for the change is provided to us by our insured, and although the increase does apply to a specific insured, it is because the insured is in a different rating category which has been approved by the Division of Insurance. As you can see, in all cases of premium increases, the insured would be notified of the reasons for the change at least fifteen days before the increase takes effect.


I do hope this draft deals with the concerns you raise. If it does not, or if we can provide further clarification on

HUGHES THORSNESS GANTZ POWELL & BRUNDIN
ATTORNEYS AT LAW

this matter, please let me know immediately, as we do wish to clarify the ambiguity present in the existing statute this session. I thank you again for your cooperation.

Sincerely,

HUGHES THORSNESS GANTZ
POWELL & BRUNDIN

By: 
Michael L. Lessmeier

Enclosure
MLL/mh
0367A

cc: Mr. Don Koch, Division of Insurance

HUGHES THORSNESS GANTZ
POWELL & BRUNDIN

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February 18, 1986

Representative Peter Goll
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Insurance Legislation

Dear Representative Goll:

I am writing to you on behalf of State Farm Insurance Company and Allstate Insurance Company regarding AS 21.36.420, which was added by the legislature in 1984 via House Bill 16. This bill deals with premium increases in automobile insurance policies and we enclose herewith a copy of this bill as enacted for your information, as well as a copy of a letter we sent Representative Miller this past session which details the difficulty we are presented with regarding the current version of AS 21.36.420.

Prior to sending this letter to Representative Miller this past session, we researched in detail the legislative history of the 1984 amendment. We spoke to as many of the members of the various committees as we could, and we also examined the documentary information which was available. We found nothing to indicate the legislative intent was to create a blanket requirement of notice and right to appeal any time an insurance premium is increased, and on the contrary, we found the focus of the original bill was simply where an insurer increased the premium of the insured because the insured was either involved in an at-fault accident or because of a citation for a moving violation.

AS 21.36.420, as it now stands, presents significant difficulty to us because of the ambiguity present in

Subsection D. If Subsection D is read literally, it could be interpreted to require an insurer to send an insured a statement of reasons for change in premium and a statement of the notice of right to appeal under AS 21.39.090 every time a premium is increased, regardless of the reason for the premium increase. Such a requirement would significantly affect the practical consequences of the way we operate our business. For example, when a general rate increase is approved by the Division of Insurance, our insureds receive at least fifteen days notice of this increase, and a brief explanation of the reasons for the increase. To present an insured with a statement telling them that they have a statutory right to appeal a premium increase already approved by the Division of Insurance is illusory, because the Department has already approved the rate filing, and it in fact would be illegal for us to charge anything but the approved rate. To suggest by means of a notice that our insured has a right of appeal not only is misleading, but could generate wasteful litigation and/or administrative hearings.

The more practical problems we face are where our insured calls and tells us that he has either added a youthful driver to his policy or purchased a new car. If we follow the literal dictates of the present statute, we simply would not be able to accept coverage in either instance until at least fifteen days after the request was made in order to assure that our insured has been informed of his proper statutory rights of notice and appeal. The same would be true of where our insured moves to a higher rated area. We would not be able to accept coverage unless our insured is able to contact us early enough so we can provide the fifteen-day notice of increase and right of appeal. We do not believe that anyone intended that AS 21.36.420 have this effect, and we sincerely believe that House Bill 476 would correct this ambiguity and would urge its passage.

We do, however, urge that in the interest of clarification one additional correction be made to the current version of House Bill 476. We do request that the language "or adds a surcharge to" be deleted, and instead the word "of" be substituted so the bill would apply to an insurer that increases the premium of an automobile insurance policy. This clarification is necessary simply to ensure that the notice of right to appeal only be given where there is a premium increase as a result of an accident or citation, as opposed, once again to simply a general increase, or an increase which occurs because of a transfer, or addition of a vehicle or driver.

HUGHES THORSNESS GANTZ POWELL & BRUNDIN
ATTORNEYS AT LAW

We do hope this legislation can be corrected this session, and will be happy to provide any assistance we can in order to accomplish that result.

Sincerely,

HUGHES THORSNESS GANTZ
POWELL & BRUNDIN

By:


Michael L. Lessmeier

Enclosure
MLL/mh
348A

MEMORANDUM

TO: Representative Peter Goll
Chairman of Community and Regional Affairs Committee

FROM: Michael L. Lessmeier

RE: HB 476

DATE: March 3, 1986

I am writing this memorandum on behalf of State Farm Insurance Company and Allstate Insurance Company regarding A.S. 21.36.420, which was added by the legislature in 1984 via HB 16. This statute deals with premium increases in automobile insurance policies and provides as follows:

(a) An insurer may not increase the premium on an automobile policy unless the increase applies to all insurers of the same class.

(b) An insurer may not increase the premium or add a surcharge to an automobile insurance policy because of the issuance of a citation for a moving traffic violation unless the insured or another person who resides in the insured's household and is covered by the policy has been convicted of the violation.

(c) The director shall adopt regulations to determine circumstances under which an insurer may increase the premium or add a surcharge to an automobile insurance policy.

(d) An insurer that increases the premium or adds a surcharge to an automobile insurance policy shall give written notice of the increase or surcharge at least fifteen (15) days before it takes effect, stating the reason for the change and the right of appeal under A.S. 21.39.090.

A.S. 21.36.42(a)-(d). The difficulty presented by this legislation is the ambiguity in subsection (d). If subsection (d) is read literally, it could be interpreted to require an insurer to send an insured a statement of reasons for a change in premium and a statement of notice of the right to appeal under A.S. 21.39.090 every time a premium is increased, regardless of the reason for the premium increase.

Such an interpretation would require an insurer to send a statement of reasons for the change and a notice of right to appeal whenever a general rate increase is approved by the Division of Insurance, or whenever an insured adds cars, increases coverage, or adds a driver. We do not believe this is what the legislature intended when enacting this statute.

The legislative history we have been able to obtain indicates the focus of the original bill was where an insurer increased the premium of an insured because the insured was either involved in an at fault accident or because of a citation for a moving violation. We found nothing to indicate the legislative intent was to create a blanket requirement of notice and right to appeal any time an insurance premium is increased. Such a requirement would have a significant practical effect on our ability to provide the kind of service we seek to provide. For example, if subsection (d) were interpreted to require written notice of the increase at least fifteen (15) days before it takes effect, stating the reason for the change and the right of appeal, we would be unable to provide immediate coverage for our policy holders who wanted to add a new driver, increase their present coverage, or purchase a new car. If we were to follow the literal interpretation of the present statute, we would not be able to accept coverage in either instance until at least fifteen (15) days after the request in order to assure our insured was informed of his or her proper statutory rights.

Another instance in which difficulties are created is where there is a general rate increase approved by the Division of Insurance. In such a case, it would be illegal for us to charge our insured anything but the filed and approved rate. To suggest by the means of a notice that our insured has a right to appeal a general rate increase is

misleading and could potentially generate wasteful litigation and/or administrative hearings.

In an effort to clarify this ambiguity, we discussed this problem with Representative Miller, and HB 476 was introduced. After discussing this with you and your staff, we have prepared a Committee Substitute for HB 476 which in effect requires an insurer to give written notice of a premium increase at least (15) days before the increase takes effect in all situations except where our insured initiates the change in premium. The notice and the statement of the insured's right of appeal is required in all situations except when a rate increase is approved by the Division of Insurance or where the increase results from a change requested by an insured.

We are only aware of two situations in which an insurer would unilaterally increase a premium because of the driving experience of the insured, i.e., where the increase is based upon an accident or a conviction of a moving traffic violation. However, the Committee Substitute for HB 476 would require notice and the statement of the right of appeal in not just these two situations, but any increase except an increase resulting from a change requested by an insured or a rate increase approved by the Division of Insurance. We believe this Committee Substitute will resolve the ambiguity that presently exists in A.S. 21.36.420(d) without in any way effecting the purpose the statute was intended to accomplish. We urge its prompt passage.

MLL/mf
0426M

CS FOR HOUSE BILL NO. 476
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to automobile insurance premiums."

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

Section 1. AS 21.36.420(d) is amended to read:

(d) An insurer that increases the premium or adds a surcharge to an automobile insurance policy shall give written notice of the increase or surcharge at least fifteen days before it takes effect, stating the reason for the change and the right of appeal under AS 21.39.090. This subsection shall not apply to increases in premium resulting from a change requested by an insured or to rate increases approved by the Division of Insurance if written notice of the rate increase is given at least fifteen days before it takes effect.