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STATE OF ALASKA  
THE LEGISLATURE

FOURTH STATE CAPITOL  
JUNEAU ALASKA 99801  
307 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

October 4, 1985

SUBJECT: HB 356

TO: Representative M.M. Miller  
House Judiciary Committee

FROM: Michael F. Ford *M.F.*  
Legislative Counsel

You have requested an analysis of HB 356. This bill would specify that an individual could assign a group life insurance policy. Although no state law at present prohibits such assignment, this would clearly establish the right to make such a transfer.

MFF:mkf  
MI:033

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date

**REQUEST**

Bill/Resolution No: HB 356  
 Title: Assignment of Group Life Insurance Policies  
 Sponsor: Gruenberg, Taylor, Pettyjohn  
 Requestor: House Judiciary  
 Date of Request: 11/27/85

**FISCAL DETAIL**

Agency Affected: Department of Revenue  
 BRU: Audit  
 Components:

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
<b>OPERATING</b>						
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LANDS & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
800 MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

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

**ANALYSIS:** The bill will have no impact on this agency, nor on any of the tax revenues this agency administers..

Prepared By: Martin J. Richard *Steen E. Keltet*  
 Division: Audit Division

Phone: 465-2320  
 Date: 12/9/85

Approved by Commissioner: *Frank Miller for*  
 Agency: Revenue

Date: 12/10/85

**Distribution (by Agency preparing fiscal note):**

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/resolution No.: HB 256  
 Title: An assignment of group life policies of insurance  
 Sponsor: Gruenberg et al.  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.  
 Program Category Affected: Consumer Protection  
 BRU, program or subprogram(s) Affected: Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FI 83	FI 84	FI 85	FI 86	FI 87	FI 88
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>						-0-
<b>NON-OPERATING</b>						-0-
<b>TOTAL</b>						-0-

GRANTS: (Thousands of Dollars)

FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

EMPLOYEES: Attach a separate page if necessary

Prepared By: John George, Director Phone: 465-2515  
 Division: Insurance Date: 4/25/85  
 Approved by Commissioner: Loren K. Lounsbury Date: 4/25/85  
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

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

7/1/84

# State of Alaska

## COMMITTEES

HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES  
(Co-Chairman)  
HOUSE JUDICIARY  
HOUSE COMMUNITY AND  
REGIONAL AFFAIRS



POUCHA  
JUNEAU, ALASKA 99811  
(907) 465-4968

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spennard, Upper Midtown Anchorage

January 24, 1986

## PRESS RELEASE

RE: HB 136. "Assignment of Group Life Insurance Policies"

Increased federal taxes for Alaskans could result from legislation scheduled for a House floor vote today, according to Max Gruenberg, Anchorage Democrat and prime sponsor of HB 136. "Assignment of Group Life Insurance Policies."

The bill authorizes assignment of group life insurance policies by an insured person to another party.

"Forty-eight other states already have group life policies assignable by statute. By joining the other states, we correct an inequitable federal tax situation which discriminates against Alaskans," said Gruenberg.

"According to the IRS, for tax purposes you need specific statutory authorization to assign your group life policy to someone else. Without the authorization, IRS requires payment of estate taxes on the policy before the proceeds go to the heir."

"The reduction in federal tax income is insignificant, but the bill makes estate planning simpler and fairer for Alaskans," said Gruenberg.

HOUSE JUDICIARY  
OCTOBER 25, 1985  
10:00 AM

Members Present:

Rep. Mike ...  
Rep. ...  
Rep. ...  
Rep. ...  
Rep. ...  
Rep. ...

Members Absent:

Rep. ...

COMMITTEE CALENDAR

HB 356:

An Act relating to assignment of group life policies of insurance.

HB 408:

An Act providing for the adoption of the Uniform Simultaneous Death Act.

HB 358:

An Act relating to nonprobate transfers.

HB 368:

An Act adopting the Uniform Comparative Fault Act; and amending rules of Civil Procedure 7, 49, 52 and 58.

WITNESS REGISTER

Jim Jordan  
Division of Insurance  
Dept. of Commerce & Economic Development  
3601 C St.

Rodney Kleedehn  
Alaska Bar Association  
550 W 8th Ave.  
Anchorage, AK 99501  
Position Statement: In favor of HB 353

George Goerig  
Alaska Bar Association  
405 W 36th  
Anchorage, AK 99503  
Position Statement: In favor of HB 356 and HB 408

David Carter  
420 E. 56th Ave. A  
Anchorage, AK 99578  
Position Statement: In favor of HB 363

J.P. Tansen  
American Council of Life Insurance and  
American Insurance Association  
P.O. Box 1111  
Fairbanks, Alaska  
Position Statement: American Council of Life Insurance  
supports HB 353  
American Insurance Assn supports HB

#### PREVIOUS ACTION

#### ACTION NARRATIVE

TAPE ONE SIDE ONE  
NUMBER 01.3

The House Judiciary Committee was called to order at 10:15 AM by Chairman Miller. Members present were: Rep. Sund, Rep. Clocksin, Rep. Pettyjohn and Rep. Gruenberg. Rep. Taylor arrived later.

Rep. Miller asked all those testifying to be very specific as to the bill they are speaking about.

George Goerig testified, representing the Alaska Bar Association, Taxation Committee. Mr. Goerig gave a background on HB 356. In other states, some of the major assets a person owned were either grouped in policies or the type of group plans that denied the person a right to do certain things with them. Many people trying to plan estates tried to transfer ownership out of that person's estate to avoid federal death taxes. The Internal Revenue Service decided that if the state where the person is a resident enacts a law saying it is legal, they will no

*Goerig  
HB 356*

longer question it. There are only one or two states other than Alaska who have not enacted legislation to allow the transfer of ownership.

TAPE ONE SIDE ONE  
NUMBER 05.3

Rep. Miller asked why a person would want transfer of ownership rather than to be designated a beneficiary. Mr. Goerig answered that if a transfer is made more than 3 years prior to the owner's death, the policy is not taxable.

TAPE ONE SIDE ONE  
NUMBER 06.7

Rep. Gruenberg asked if the owner transferred the policy to someone else, is that taxed as a gift? Mr. Goerig replied it is taxable if it has value. Often the group policies do not have a cash surrender value. Many times the owner would borrow the money out, leaving no cash surrender value, and then transfer the policy. Rep. Gruenberg then asked if a state estate tax exists, and if so, if this bill would decrease the amount of money coming into the state of Alaska. Mr. Goerig answered the amount would be minimal. When the Uniform Probate Code was adopted in 1971 the inheritance tax was abolished but a "pick-up" tax was retained. The "pick-up" tax is a certain amount the federal government will allow as a state death tax credit. In effect, the federal government would collect the taxes if the state did not. The amount is minimal however, because if you reduce the person's federal estate taxes you also reduce the amount of credit available for the state to pick up.

Gift Tax  
State Tax

TAPE ONE SIDE ONE  
NUMBER 09.2

Rep. Clocksin asked how many states have adopted this legislation. Mr. Goerig answered approximately 43 or 49. Rep. Clocksin noted the committee should obtain a fiscal note from the Estate Tax Division.

Rep. Sund noted that it is not actually a loss of revenue as the tax would be collected at a later date upon the death of the transferee.

Rep. Clocksin asked if this legislation would apply to the Alaska Bar Association's group life policy and the State of Alaska's group life policy. Mr. Goerig answered yes, any type of group policy would be affected.

TAPE ONE SIDE ONE  
NUMBER 17.2

Rep. Gruenberg suggested making the title of the bill more specific.

HB 358

TAPE ONE SIDE TWO  
NUMBER 000

Rep. Clocksin asked if the goal of the bill was to pay certain benefits, such as the proceeds of life insurance policies, directly to the beneficiary without any of it going to pay off debts. Mr. Kleedehn responded that the bill does accomplish that purpose. Mr. Kleedehn also stated life insurance proceeds are a quick liquid asset often provided for the family to get through the period of probate and that probate assets are used to pay debts.

TAPE ONE SIDE TWO  
NUMBER 12.3

Rep. Gruenberg questioned lines 11-12 on page 1 of HB 358. He asked if the intent of the legislation was to prevent creditors from obtaining a savings bond or mortgage or escrow. He also asked if the intent of that section was to shift the burden of showing that the testator's intent is that the money go to creditors. Mr. Goerig stated that these types of things have always been treated as assets of the estate and was unclear as to why they were included. Mr. Kleedehn noted the substantive language is in subsection c which states that the proceeds of these types of contracts, if left to the estate, are not subject to creditors claims to any greater extent than if they were left to someone else. Rep. Gruenberg asked the members of the Bar Association to work with him during the interim on the bill as the intent of the language is unclear.

TAPE ONE SIDE TWO  
NUMBER 21.4

Rep. Gruenberg asked if the intent of the bill was to be revenue-neutral. Mr. Goerig stated yes. Rep. Gruenberg asked if the Department of Revenue prepares a fiscal note with some impact, will it be necessary to add any language to the bill to bring it back to a revenue-neutral situation. Mr. Goerig answered no because it is controlled by federal rather than state law. Rep. Clocksin requested the committee obtain a fiscal note from the Department of Revenue.

Jim Jordan from the Division of Insurance testified on HB 356. Rep. Gruenberg asked Mr. Jordan the Division's position on the bill. Mr. Jordan stated the Division favored the bill. Rep. Sund asked what the probable fiscal impact would be and Mr. Jordan replied, "by the Division of Insurance, zero, because it really does not affect our acct."

DIV Ins  
HB 358  
favors the  
bill

HB 408

Rep. Miller noted Rep. Taylor's presence. Rep. Gruenberg asked Mr. Goerig if he received the sponsor substitute to HB 408. Mr. Goerig replied yes.

Mr. Goerig noted the Uniform Simultaneous Death Act was enacted to provide for disposing of a persons assets and to prevent lawsuits in a situation when there was no evidence of who died first. The Uniform Probate Code contains a provision which sets out a procedure if neither person survives the other by 120 hours. The problem with this provision is that it only deals with probate property. Alaska is the only state to repeal the Uniform Simultaneous Death Act. All other states that have adopted the Uniform Probate Code did retain the Uniform Simultaneous Death Act. There is a slight conflict between the legislation and the Uniform Probate Code as the number of hours are not included in the bill. The community property section was left in the bill for the protection of the spouse.

no - it  
15 OK

TAPE ONE SIDE ONE  
NUMBER 40.8

Rep. Gruenberg asked if the intention of the bill is to extend the concept of unravelling a simultaneous death problem to a nonprobate estate. Mr. Goerig replied yes and that Alaska has the highest ratio of simultaneous deaths. Rep. Gruenberg noted the difference between the 2 bills is the addition of sections 13.43.020(a) page 1, line 13 and (b) on page 2, line 3 in the sponsor substitute. Mr. Goerig stated subsection b essentially says if the Probate Code presumptions are applied then they will apply over section 13.43.020. Rep. Gruenberg asked Mr. Goerig's opinion about amending the statute where it says that the rules of evidence apply unless specifically displaced by 13.06-13.06 to read 13.06-13.43. Mr. Goerig felt it would clarify the statute.

TAPE ONE SIDE ONE  
NUMBER 40.8

Rodney Kleedehn from the Alaska Bar Association, Taxation Committee, testified on HB 358. HB 358 concerns the liability of retirement benefits and life insurance proceeds from creditors claims against the estate. The change would provide that employee benefits and life insurance proceeds left to a probate estate or to a testamentary trust would also be exempt from claims of creditors, instead of allowing the exemption only to an individual. Essentially the mechanism through which the employee benefits or life insurance pass would not determine whether or not creditors can retain those benefits. The mechanism can be an estate, individual, or trust, for example. In theory a testamentary trust does not come into existence until the probate estate is closed.

program." Rep. Clocksin asked whether the Division of Insurance handled the state's life group insurance policy. Mr. Jordan replied the Division of Retirement and Benefits in the Dept. of Administration handles the life group insurance policy. Mr. Jordan stated that the State life insurance plan already allows for the assignment of benefits therefore it would not be affected.

TAPE ONE SIDE TWO  
NUMBER 30.6

David Carter, representing self, testified on HB 368. Mr. Carter urged passage of the bill in its present form. Mr. Carter stated that prior to 1975 Alaska used the common law rule of contributory negligence. He felt the rule was unnecessarily harsh, and was shelved. The state adopted the pure form of comparative fault and negligence in 1975. The legislature adopted in 1970 the Uniform Contribution Among Joint Tortfeasor Act which allows for pro rata contribution among joint tortfeasor. The difficulty with the system of requiring each party to pay an equal share of the loss is that the defendants are often not equally responsible. HB 368 brings Alaska law up to date with the adoption of pure comparative negligence regarding contributions among joint tortfeasors. Mr. Carter clarified the following sections: Sec.09.17.010 (page 1, line 12) essentially codifies what was judicially adopted in the Katz opinion; Sec. 09.17.020 requires the fact finder to answer special interrogatories to the issue of the amount of fault of each party to the action and also entities that are not party to the action. Mr. Carter felt the controversial portion of Sec. 09.17.020 is section (d) which provides all parties bear the effect of another party's insolvency according to their share of adjudicated fault.

Rep. Miller questioned why if a person is 50% guilty he should have to pay 70%. Mr. Carter answered that is derived from the common law doctrine joint and several liability which some people would advocate be abolished, however others feel it would leave a lot of people without a solvent judgement debtor. This act seeks to impose the risk of insolvency in an equitable manner on other solvent defendants and the claimant, if the claimant is at fault, in proportion to the degree of fault.

TAPE TWO SIDE ONE  
NUMBER 000

Discussion of Sec. 09.17.020 (b) continued. Mr. Carter explained that Sec. 09.17.030 states the claim and the counterclaim may not be set off against each other except by agreement of the parties. Essentially this section requires each insurance company to pay the full amount of

the claim rather than paying the offset amount. Section 09.17.040 was then discussed. Mr. Carter felt this section deals with the right of contribution and reviews when a person has a right of contribution. The section changes the basis of the share from pro rata to each person's equitable share of the obligation. Mr. Carter then discussed Sec. 09.17.060 which he felt was controversial. He explained the section to say that if a claimant settles with one of the defendants and the defendant's share amounts to more than the amount of money received in the settlement, the other defendants are not responsible for that portion of the share. Under the current law other defendants are entitled to a pro tanto reduction in the judgement. Rep. Sund asked which method would encourage people to settle. Mr. Carter replied the current system in his opinion because although it is inequitable it does not require precision. Rep. Gruenberg felt this section to be an "absent chair" situation. Mr. Carter suggested the following article to committee members found in Volume 30 of the Hastings Law Journal, May 1979, by John Fleming, entitled "Report to the Joint Committee of the California Legislature on Tort Liability on the Problems Associated with American Motorcycle Association vs. Superior Court".

TAPE TWO SIDE ONE  
NUMBER 29.1

Rep. Gruenberg asked whether it would be proper for the legislature to repeal the Uniform Contribution of Tortfeasors Act whether the bill was adopted or not. Mr. Carter answered that such an action would create more difficulty and would be dodging the issue. Rep. Gruenberg noted the Supreme Court has asked the Legislature to look at the statute several times.

TAPE TWO SIDE ONE  
NUMBER 31.0

J.P. Tangen, representing the American Council of Life Insurance testified. He stated the Council asked him to advise the committee that HB 356 is already law in most states and it has no objection to amending the statute, therefore supports the bill. HB356

Mr. Tangen, also representing the American Insurance Association, testified on HB 368. He informed the committee of similar laws in other states. What is known as "Type 1 Comparative Negligence" has been adopted either judicially or statutorily in 13 states as of December 1982. The states that have adopted it judicially include Alaska, California, Florida, Illinois, and Michigan. The states that have adopted it statutorily are Louisiana, Michigan, Mississippi, New York, Puerto Rico and Washington state. He finds problem with comparative negligence to be that it HB368

represents an extreme correction to a difficult situation which was posed by the earlier law in Mr. Tangen's opinion. Mr. Tangen feels the insurance companies are going to be setting their rates based on the predictability of risk so a well drafted statute which will help predict risks for the insurance carrier to formulate would be desirable.

TAPE TWO SIDE ONE  
NUMBER 41.3

Rep. Gruenberg spoke about the word "uncollectible" on page 2, line 19. He gave an example of a person who is solvent but who through specific planning has made a judgement uncollectible. Rep. Gruenberg also stated that claimants are looking at governments as a deep pocket more frequently. Mr. Tangen stated the contribution between joint tortfeasers is a very substantial problem. He informed the committee that certain municipalities are contemplating disincorporation to avoid this responsibility. Mr. Tangen concluded his testimony by saying he would be prepared to make stronger recommendations by the beginning of the session.

Rep. Miller recessed the meeting until 1:30 PM.

Rep. Miller reconvened the meeting at 1:45 and adjourned the meeting due to lack of further legislature.



Official Business

# Alaska State Legislature

Pouch V  
State Capitol  
Juneau, Alaska 99811

## MEMORANDUM

DATE: February 11, 1986

TO: Senator Rodey, Chair  
Senate Judiciary Committee

FROM: Rep. Max Gruenberg, Jr. *MG*

RE: HB 356:  
"An Act relating to the assignment of group life  
insurance policies"

I would greatly appreciate it if HB 356, which relates to the assignment of life insurance policies and amends AS 21.42.270, would be scheduled in the Judiciary Committee as soon as it may be possible.

Thank you very much.

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: 465-2515

*DIVISION OF INSURANCE*

February 11, 1986

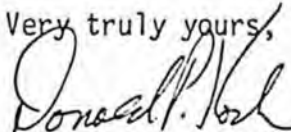
The Honorable Fred Zharoff  
Chairman  
Senate Labor & Commerce Committee  
P.O. Box V  
Juneau, AK 99811

Dear Senator Zharoff:

Re: HB 356 - Assignment of Group  
Life Insurance

A number of questions concerning references to an Attorney General's Opinion were raised at the Senate Labor and Commerce hearing on HB 356 held on February 10, 1986. The suggestions of Mr. Jordan never resulted in a formal request for an Attorney General's Opinion. There were some casual discussions with the director at that time and the Attorney General's Office. The general drift of discussions at that time was, that in view of the potential impact from federal estate tax situations, the preferred method of dealing with the issue would be specific legislation to clarify the extent of assignment possible. The thinking was that interpretations would be subject to question where clear statutory language would probably not be so subject. I'm sorry that I did not anticipate the questions generated by the memo and accompany it with an explanation.

Very truly yours,



Donald P. Koch  
Chief of Market Surveillance

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