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BILL CONTACT/ACTION

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May 1, 1986

Senator Patrick M. Rodey
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: House Bill 476

Dear Senator Rodey:

I am writing to you on behalf of State Farm Insurance Company and Allstate Insurance Company regarding House Bill 476, which was passed by the Senate Community and Regional Affairs Committee today, May 1, 1986. This bill deals with premium increases in automobile insurance policies, and was introduced at our request to correct an ambiguity in AS 21.36.420, which was added by the legislature in 1984 via House Bill 16. We enclose herewith a copy of AS 21.36.420 for your information.

The ambiguity House Bill 476 was designed to correct is contained in subsection (d) of AS 21.36.420:

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 15 days before it takes effect, stating the reason for the change and the right of appeal under AS 21.39.090.

If this subsection 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 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 presently do 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 increase. 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 right 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 AS 21.36.420 to have this effect, and we believe House Bill 476 would correct this ambiguity and thus urge its passage.

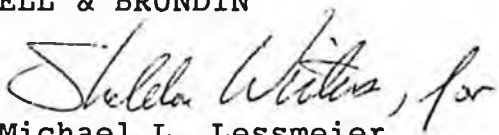
The present version of House Bill 476 requires written notice of the increase stating the reason for the change and the right of appeal in all instances except to: (1) a premium increase resulting from a change requested by an insured if the insured is notified at the time of the request that his or her premium will change or (2) a rate increase approved by the Director if the insurer gives written notice to the insured of the rate increase at least fifteen days before the expiration date of the affected policy, which is when the increase would of course take effect. We do not believe these changes would affect in any way the original intent which prompted the enactment of AS 21.36.420. On the contrary, HB 476 would correct a negative effect not intended by the original legislation.

HUGHES THORSNESS GANTZ POWELL & BRUNDIN
ATTORNEYS AT LAW

We do hope this ambiguity can be corrected this session and kindly request you calendar the bill. We will be happy to provide any assistance or further information you might desire. Thank you.

Sincerely,

HUGHES THORSNESS GANTZ
POWELL & BRUNDIN

By:  for
Michael L. Lessmeier

Enclosures
MLL/mh

cc: Members of the Senate Judiciary Committee

Department of Commerce & Economic Development / POSITION PAPER

CSHB 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.

Alaska Statute 21.36.420(d) was structured to require a notice of all premium increases by an insurer. The notice gives a reason for the increase and the right to an appeal under AS 21.39.090. It is not clear whether a notice of reason and notice of right to appeal 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 and we believe that a right to appeal on top of the review process would be unduly wasteful of state resources.

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. We do not object to the notice of 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.

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

Date: 3/3/86

John E. George
John E. George, Director of Insurance

Date: 3/3/86

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COMMERCE & ECONOMIC
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