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STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL

JUNEAU, ALASKA 99811

9-17 365 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 5, 1986

SUBJECT: Conflict with single subject rule
(CSSB 443(Jud))

TO: Senator Pat Rodey
Chair, Judiciary Committee

FROM: Theresa L. Bannitt *TB*
Legislative Counsel

This memo accompanies version 2 of CSSB 443(Jud) that you have requested.

This version of SB 443 raises an issue concerning the single subject rule. Article II, sec. 13 of the Alaska Constitution prohibits the inclusion in one bill of more than one subject. The subject of CSSB 443(Jud) appears to relate to insurance. However, section 2 requires attorneys to report all of their closed personal injury cases that have been litigated, whether or not the cases or underlying claims involved insurance. Section 5 as it now stands, appears to add unrelated matter to the bill.

The purpose of the single subject rule is to "...prevent the inclusion of incongruous and unrelated matter in the same bill in order to get support for it which the separate subjects might not separately command, and to guard against inadvertence, stealth, and fraud in legislation." Suber v. Alaska State Bond Committee, 414 P.2d 546 (Alaska 1966). The Alaska Supreme Court has construed this constitutional requirement and provided certain standards. All that is necessary is that the act should embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be part of, or germane to, one general subject. State v. First National Bank of Anchorage, 660 P.2d 406 (Alaska 1982); Yute Air Alaska, Inc. v. McAlpine, 698 P.2d 1173 (Alaska 1985). What constitutes

Senator Rodey
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one subject is broadly construed, and an act will not be set aside for failing to comply with the single subject rule "except where the violation is both substantial and plain." North Slope Borough v. Sohio Petroleum Corp., 585 P.2d 534, 545 (Alaska 1978).

Applying the above standard to the inclusion in SB 443 of a requirement that attorneys report all closed personal injury cases, it is my opinion that insurance and personal injury cases are two distinct subject areas, and when combined as in this bill do not meet the standard articulated by the Alaska Supreme Court, that each bill fall under one general idea, or general subject. Therefore, the combination of these subjects in this bill would violate art. II, sec. 13 of the Alaska Constitution requiring that each bill be limited to one subject.

If I can be of further assistance, please advise.

TLB:mkr
m5/069

Enclosure

Senate Bill No. 443

Section 1. AS 21.34.170 is amended to read:

Sec. 21.34170. [MONTHLY] REPORTS, SUMMARY OF EXPORTED BUSINESS. On or before the end of each month, each surplus lines broker shall file with the director, on forms prescribed by the director, a verified report in duplicate of all surplus lines insurance transacted during the preceding calendar month showing the following information itemized by kind of insurance:

(1) the aggregate gross premiums written; [AND]

(2) the aggregate return premiums.

On or before the end of each quarter, each surplus lines broker, adjuster and company shall file with the director, on forms prescribed by the director, a verified report of the aggregate claims incurred during the quarter, showing the amount of losses experienced in the state, including amounts paid for the settlement of claims and satisfaction of judgments in the state; amounts held for losses incurred in the state but not reported and amounts of unpaid claims [BY KIND OF INSURANCE].

Sec. 2. AS 21.34.170 is amended by adding a new subsection to read:

(b) The director shall make the statements required by (a) of this section available to the public for inspection.

MEMORANDUM

State of Alaska ^{SB} 443

TO: John L. George, Director

DATE: March 17, 1986

FILE NO.:

THRU:

TELEPHONE NO.:

SUBJECT: 1985 Underwriting Results
Other Liability

FROM: Donald DeMuth
Chief Financial Examiner

You have asked me to review the underwriting results of approximately the 10 leading writers of the line "Other Liability" "(17)" in the State of Alaska. The results of my study follow.

You will note that I have actually supplied statistics on 13 companies. The reason for the three additional companies are: You stated that you did not want companies like "State Farm" - companies that are not traditionally considered to be writers of Other Liability included. For this reason, I did not know if you wanted ARECA Insurance Exchange included or not. I added one company and you may exclude "ARECA" if you wish. I also question the accuracy of the Continental Insurance Company's Alaska direct losses incurred figure, and both noted a probable aberration in schedule "P" figures and am aware that CIGNA made some big reserve adjustments which may well be without basis at year-end, and which may have skewed Alaska Pacific Assurance Company's figures. You may, hence, eliminate the figures for these two companies if you wish and still be left with the statistics on 10 companies. I also eliminated the figures for the Insurance Company of North America as their page 14 figures for this line are probably erroneous and meaningless.

The first area of experience that I looked at was the company's direct underwriting results in Alaska. The results are summarized as follows:

Rank by Premium Written In Alaska		Alaska Direct Premium Written	Alaska Direct Premium Earned	Alaska Direct Losses Paid	Alaska Direct Losses Incurred	Alaska Loss Ratio
12	Federal Insurance Company	\$ 759,348	\$ 556,132	\$ 4,380	\$ 32,347	5.8%
13	The Continental Ins. Co.	552,533	558,859	299,050	(387,290)	*
10	Pacific Marine Insurance Co. of Alaska	792,416	308,528	150,530	245,804	30.4%
2	Alaska National Ins. Co.	3,938,343	2,703,705	1,581,866	2,173,774	80.4%
1	AK Pacific Assurance Co.	4,148,556	4,329,380	1,845,266	2,960,272	68.4%
7	Freemont Indemnity Co.	1,581,809	1,600,374	283,530	856,617	53.5%
9	ARECA Insurance Exchange	975,398	975,398	50,849	175,312	18.0%
6	Providence Washington Insurance Co. of Alaska	1,827,910	2,424,073	4,275,334	2,817,529	116.2%

5	Industrial Indemnity Company of Alaska	1,838,269	1,842,175	1,236,617	1,423,207	77.3%
4	Alaska Insurance Company	1,870,196	1,539,729	576,349	896,926	58.3%
3	Nat'l Union Fire Ins. Co.	3,732,736	2,636,895	170,668	577,159	21.9%
11	Employers Insurance of Wausau, A Mutual Company	759,889	675,147	124,435	992,116	147.0%
8	General Accident Ins. Company of America	<u>1,004,405</u>	<u>996,593</u>	<u>22,857</u>	<u>733,765</u>	<u>75.7%</u>
		\$23,781,808	\$21,649,998	\$10,621,731	\$13,497,538	62.3%

* Meaningless

The column above entitled "Alaska Direct Losses Paid" is not of much significance. I included it only to illustrate the great disparity between losses paid and losses incurred in certain cases. There are a number of possible reasons for this disparity, but I cannot identify which reason is responsible for the cases reflected in the above exhibit.

For comparative purposes, I attempted to develop the same information for the same companies on a national basis. The companies are not required to provide this information on a national basis, but a few companies volunteer and, hence, complete page 14 of the annual statement on a national basis. The results of this comparative study does not reveal very much information, but the results are as follows:

Rank by Premium Written In Alaska		National Direct Premium Written	National Direct Premium Earned	National Direct Losses Paid	National Direct Losses Incurred	National Loss Ratio
12	Federal Insurance Company	Information not available.				
13	The Continental Ins. Co.	Information not available.				
10	Pacific Marine Insurance Co. of Alaska	Information not available.				
2	Alaska National Ins. Co.	Information not available.				
1	AK Pacific Assurance Co.	Information not available.				
7	Freemont Indemnity Co.	\$31,645,042	\$34,211,163	\$25,679,707	\$53,934,431	157.0%
9	ARECA Insurance Exchange	National experience same as Alaskan experience.				
6	Providence Washington Insurance Co. of Alaska	Information not available.				
5	Industrial Indemnity Company of Alaska	Information not available.				
4	Alaska Insurance Company	National experience same as Alaskan experience.				
3	Nat'l Union Fire Ins. Co.	Information not available.				
11	Employers Insurance of Wausau, A Mutual Company	Information not available.				
8	General Accident Ins. Company of America	Information not available.				

In an attempt to get some kind of comparative information - Alaska vs. National - I then decided to take a look at the same companies' net national business. This is not a direct comparison due to the fact that net business is net of assumed and ceded reinsurance, but the annual statement does not reflect direct national premium earned, only written, so I had no choice.

The result of this study is as follows:

Rank By Premium Written In Alaska		National Net Premium Written	National Net Premium Earned	National Net Losses Paid	National Net Losses Incurred	National Net Loss Ratio
12	Federal Insurance Company	\$223,854,784	\$166,392,450	\$ 42,483,524	\$ 85,539,884	51.4%
13	The Continental Ins. Co.	38,763,790	32,026,227	19,576,743	30,650,173	95.7%
10	Pacific Marine Insurance Co. of Alaska	Not Applicable				
2	Alaska National Ins. Co.	2,077,778	1,547,010	222,217	1,051,834	68.0%
1	AK Pacific Assurance Co.	3,884,456	3,271,879	3,995,018	5,151,751	157.5%
7	Freemont Indemnity Co.	33,824,745	26,542,239	11,277,702	36,844,816	138.8%
9	ARECA Insurance Exchange	823,895	823,895	50,849	175,312	21.3%
6	Providence Washington Insurance Co. of Alaska	Not Applicable				
5	Industrial Indemnity Company of Alaska	Not Applicable				
4	Alaska Insurance Company	Not Applicable				
3	Nat'l Union Fire Ins. Co.	357,841,310	283,621,245	80,724,018	222,277,500	78.4%
11	Employers Insurance of Wausau, A Mutual Company	112,716,611	104,759,066	73,570,268	73,177,983	69.9%
8	General Accident Ins. Company of America	31,868,701	29,249,804	10,955,921	20,886,903	71.4%
		\$805,656,070	\$648,233,815	\$242,856,260	\$475,756,156	73.4%

I also felt that it might be interesting to make a similar review on an accident year basis rather than on a calendar year basis. The reason for this comparative review is that reserve changes made during 1985 applicable to prior year business is reflected in the calendar year 1985 experience, but not in the 1985 accident year experience. The accident year business only reflects the company's experience on accidents that actually happened during 1985. The result of this review is as follows:

Rank By Premium Written In Alaska		Nat'l Net 1985 Accident Year Premium Earned	Nat'l Net 1985 Accident Year Loss Payments	Nat'l Net 1985 Accident Year Losses Incurred	Nat'l Net 1985 Accident Year Loss Ratio
12	Federal Insurance Company	\$166,392,450	\$ 8,109,100	\$ 77,210,574	46.4%
13	The Continental Ins. Co.	32,026,247	1,618,902	24,550,326	76.7%

10	Pacific Marine Insurance Co. of Alaska	Not Applicable				
2	Alaska National Ins. Co.	1,547,010	34,420	1,012,476	65.5%	
1	AK Pacific Assurance Co.	3,271,879	414,259	2,790,689	85.3%	
7	Freemont Indemnity Co.	26,542,239	1,605,638	26,435,512	100.0%	
9	ARECA Insurance Exchange	823,895	30,435	362,961	44.1%	
6	Providence Washington Insurance Co. of Alaska	Not Applicable				
5	Industrial Indemnity Company of Alaska	Not Applicable				
4	Alaska Insurance Company	Not Applicable				
3	Nat'l Union Fire Ins. Co.	283,621,245	7,168,480	211,149,406	74.5%	
11	Employers Insurance of Wausau, A Mutual Company	104,759,072	6,085,504	50,311,511	48.0%	
8	General Accident Ins. Company of America	<u>29,249,801</u>	<u>1,126,201</u>	<u>16,247,129</u>	<u>55.6%</u>	
		\$648,233,838	\$ 26,192,939	\$410,070,584	63.3%	

Overall, in spite of all the tears that the insurance industry is shedding, it appears to me that the insurance industry is doing quite well for this line. Unfortunately, accident year direct statistics are not available for Alaska, but I would guesstimate that if they were, they would reflect a loss ratio down around 50%. I also note that the paid loss ratio for accident year 1985, on a national basis, is down around 4%. Fat city on investment income coming up in 1986, particularly in those states that do not allow pre- and postjudgment interest.

I would suggest that you have your market conduct "rate section" follow-up on this memo - perhaps doing some research work in some of the companies offices. I hope to take a look at Providence Washington Insurance Company of Alaska and Industrial Indemnity Insurance Company of Alaska shortly, as both are overdue for an examination.

I would also suggest that you have your rate people perhaps take a look at 1984 experience for comparative purposes. It might also be interesting to do a policy year review of the same companies for 1984. This information should now be available but it is not reported in the annual statement. It would entail a special statistical call.

All figures reflected in this memo were taken from filed annual statements, but I have no idea how accurate the information is.

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STATEMENT OF PURPOSERS 12049C1

This bill will amend Section 41-335, Idaho Code, to require disclosure to the Department of Insurance of certain financial information maintained by insurance companies. The bill confers additional rule-making authority upon the Department of Insurance to require such statistical information and reports as the Department deems necessary to more adequately monitor insurance coverage, claims, and rates in the State of Idaho.

The Statistical information currently being reported by the Insurance Industry to the Department of Insurance is incomplete and does not enable the Department of Insurance to evaluate questions of coverage, rates, claims, or losses within the industry.

FISCAL IMPACT

No Fiscal Impact on the general fund. This bill requires the Director of Insurance to include within the regulation currently existing under Section 41-401, the costs of administering this provision.

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 460

BY BUSINESS COMMITTEE

AN ACT

RELATING TO STATISTICAL REPORTING OF INSURANCE CARRIERS; AMENDING SECTION 41-336A, IDAHO CODE, TO REQUIRE INSURANCE CARRIERS TO REPORT THEIR IDAHO EXPERIENCE AND OVERALL EXPERIENCE SEPARATELY, TO AUTHORIZE THE DIRECTOR TO PROVIDE FOR FORMS AND INFORMATION BY RULES AND REGULATIONS, AND TO ALLOW THE DIRECTOR TO COMPILE STATISTICS AND PREPARE REPORTS; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-336B, IDAHO CODE, TO REQUIRE AN INSURER TO SUBMIT A DISPOSITION OF CLAIMS REPORT FOR CERTAIN TYPES OF CLAIMS, TO REQUIRE THE REPORTS BE MADE PUBLIC, AND TO PROVIDE IMMUNITY FROM SUIT FOR INSURERS AND THE DEPARTMENT FOR ACTIONS TAKEN PURSUANT TO THE SECTION; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-336C, IDAHO CODE, TO PROVIDE PENALTIES FOR FAILURE TO REPORT; AND AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-336D, IDAHO CODE, TO PROVIDE FOR FEES AND MISCELLANEOUS CHARGES FOR THE ADMINISTRATION OF THE PROVISIONS OF SECTIONS 41-336A, 41-336B AND 42-336C, IDAHO CODE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-336A, Idaho Code, be, and the same is hereby amended to read as follows:

41-336A. STATISTICAL REPORTS. (1) As a condition of doing business in the state of Idaho each insurer transacting insurance covering:

(a) Liability for malpractice of any person licensed under chapter 18, title 54, Idaho Code;

(b) Liability for malpractice of any person licensed under chapter 1, title 3, Idaho Code;

(c) Liability for the manufacture, design, production, processing or modification of any product; or

(d) Any other risk or risks, whether liability or otherwise, that the director of the department of insurance may specify;

shall report to the director such statistics as the director may designate by rule or regulation. The statistics shall be reported to the director annually, by the first day of March, for the preceeding year ending December 31. The statistics shall separately address the experience of the state of Idaho and all other experience including the state of Idaho.

(2) The reports required by subsection (1) above shall include, but shall not be limited to, the following for each insurer for each type of insurance for which a report is required:

(a) Number of exposures;

(b) Direct premiums written;

(c) Direct premiums earned;

(d) Direct losses paid

(i) amount,

(ii) number of claims;

(e) Direct losses incurred;

- 1 (f) Direct losses unpaid
 2 (i) amount reported,
 3 (ii) number of claims; and
 4 (g) Net losses incurred but not reported.

5 (3) Reports required by subsection (1) of this section shall be made on
 6 forms required by the director and shall contain the information required by
 7 rule and regulation of the director.

8 (4) The director may annually compile and review all reports submitted
 9 under the provisions of this section. When reports are submitted representing
 10 no less than seventy-five percent (75%) of the premiums written for each re-
 11 porting line of insurance for the reporting year, the director shall evaluate
 12 the premium rates in Idaho for each reporting line of insurance. The findings
 13 of such review and evaluation, and the reports required of insurers under this
 14 section, shall be made available to any interested citizen, insured or li-
 15 censed insurer.

16 SECTION 2. That Chapter 3, Title 41, Idaho Code, be, and the same is
 17 hereby amended by the addition thereto of a NEW SECTION, to be known and
 18 designated as Section 41-336B, Idaho Code, and to read as follows:

19 41-336B. DISPOSITION OF CLAIMS REPORT. (1) As a condition of doing busi-
 20 ness in the state of Idaho, each insurer transacting insurance subject to the
 21 provisions of section 41-336A, Idaho Code, shall report to the director annu-
 22 ally by the first day of March, for each of the two (2) years next preceding
 23 the initial report and for one (1) year next preceding filing the report
 24 thereafter for each and every claim as defined in section 41-336A, Idaho Code,
 25 caused by the insured, for policies issued in the state of Idaho, if the claim
 26 resulted in:

- 27 (a) A final judgment in any amount;
 28 (b) A settlement in any amount;
 29 (c) A final disposition not resulting in payment on behalf of the
 30 insured.

31 (2) Reports required in subsection (1) of this section shall be made on
 32 forms required by the director and shall contain the information required by
 33 rule and regulation of the director.

34 (3) The director shall make reports required hereunder available to the
 35 public in a manner which will not reveal the names of any person, manufacturer
 36 or seller involved.

37 (4) There shall be no liability on the part of, and no cause of action
 38 shall arise against, any insurer reporting hereunder or its agents or
 39 employees, or the director or employees of the state, for any action taken by
 40 them in good faith compliance with the provisions of this section.

41 SECTION 3. That Chapter 3, Title 41, Idaho Code, be, and the same is
 42 hereby amended by the addition thereto of a NEW SECTION, to be known and
 43 designated as Section 41-336C, Idaho Code, and to read as follows:

44 41-336C. FAILURE TO COMPLY -- PENALTIES. (1) Any insurance company
 45 required to file a report with the director under sections 41-336A or 41-336B,
 46 Idaho Code, which neglects to file such report in the form prescribed and
 47 within the time specified, or who neglects to fully and satisfactorily respond
 48 in any report timely filed, shall be subject to a penalty of one hundred
 49 dollars (\$100) for each day in default.

50 (2) This penalty shall be in addition to any administrative penalty under

1 section 41-327, Idaho Code.

2 SECTION 4. That Chapter 3, Title 41, Idaho Code, be, and the same is
3 hereby amended by the addition thereto of a NEW SECTION, to be known and
4 designated as Section 41-336D, Idaho Code, and to read as follows:

5 41-336D. FEES AND MISCELLANEOUS CHARGES. The director shall include
6 within the regulation required in section 41-401, Idaho Code, the fees and
7 miscellaneous charges required for the administration of the provisions of
8 section 41-336A, 41-336B and 41-336C, Idaho Code.

Report blasts insurance rates

by Patricia O'Brien
Knight-Ridder Newspapers

WASHINGTON — The insurance industry hiked its 1984 rates for medical malpractice and general liability coverage by more than was needed to remain profitable, according to a government report released Monday — a charge rejected by an industry spokeswoman as “totally naive” and unfair.

Insurance companies have come under fire in recent months for sharp increases in liability rates that have resulted in medical care providers, municipalities and such “high risk” businesses as asbestos removal companies being forced to pay huge premium increases or — sometimes — being unable to obtain coverage at all.

According to testimony by officials of the General Accounting Office, the investigative arm of Congress, the impact of the hikes has been severe. Among the examples cited at a congressional hearing Monday:

- A recent survey of day care providers found that 40 percent of those surveyed had their insurance coverage canceled while most of the remainder were forced to pay premium increases of between 200 and 300 percent.

- The American Medical Association reported that malpractice rates for obstetricians in Maryland increased by 130 percent last summer — a trend that some say is causing doctors nationwide to consider closing their doors rather than pay the es-

calating premiums.

“The insurance industry is generally a very profitable business,” said GAO official Natwar Gandhi. “To break even after some rough times, all these companies had to do was raise medical malpractice rates by 20 percent. They went much farther than that.”

Mavis Walters, an actuary with the Insurance Services Office, protested that the GAO report ignores the financial realities of sharply increased costs due to a trend toward large lawsuit settlements.

“Our losses have been too high, and our prices too low,” she said. “We have to make it up. The GAO is just looking backward, and that is totally naive.”

Walters said her organization, which provides ratemaking data to the industry, recommended that malpractice rates increase by 47 percent in 1984. “That was our break-even recommendation,” she said.

According to the GAO, even though the insurance industry lost money in 1984, it still made between \$50 and \$75 billion in net profits over the last 10 years. In addition, the industry itself is predicting a profitable five-year period ahead.

The industry blames several years of “cutthroat” rate competition, an “explosion” of lawsuits — and the sharp drop in interest rates, which eroded companies’ investment income — for its heavy recent losses. As a result, companies contend,

See Insurance, page E-7

Bannister
4/24/86

Original sponsor: Halford

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 443 (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 insurance reporting and dis-
7 closure requirements, reporting fees, and reporting
8 penalties; evaluation of insurance premium rates;
9 surplus lines insurance; and the Medical Indemnity
10 Corporation of Alaska."

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

12 * Section 1. AS 21.09.200 is repealed and reenacted to read:

13 Sec. 21.09.200. ANNUAL STATEMENT. (a) Each authorized insurer
14 shall before March 2 of each year file with the director a full and
15 true statement of its financial condition, transactions, and affairs
16 as of the preceding December 31. The statement shall be in the gener-
17 al form and context acceptable to the director, and shall be cate-
18 gorized by the specific type of insurance risk and by the business,
19 profession, service, activity or enterprise of the insured. The
20 statement shall be verified by the oath of the insurer's president or
21 vice-president, and secretary, or, if a reciprocal insurer, by oath of
22 the attorney-in-fact or the same officers if a corporation, unless
23 verification is waived by the director of insurance. The statement
24 shall itemize all required information according to the

25 (1) total experience of the insurer; and

26 (2) experience of the insurer in the state.

27 (b) The statement required by (a) of this section must include
28 the following information for each type of insurance risk reported in
29 the statement:

- 1 (1) number of exposures;
- 2 (2) direct premiums written;
- 3 (3) direct premiums earned;
- 4 (4) the amount and number of claims of direct losses paid;
- 5 (5) direct losses incurred;
- 6 (6) the amount reported and number of claims for direct
- 7 losses unpaid;
- 8 (7) net losses incurred but not reported.

9 (c) The director shall annually review and compile all state-
10 ments submitted under (a) of this section. When the submitted state-
11 ments amount to 75 percent or more of the premiums written for a line
12 of insurance reported for the reporting year, the director shall
13 evaluate the premium rates in the state for the line of insurance.

14 (d) The statement of an alien insurer shall relate only to its
15 transactions and affairs in the United States unless the director
16 requires otherwise. If the director requires a statement concerning
17 an alien insurer's affairs throughout the world, the insurer shall
18 file the statement with the director as soon as is reasonably possi-
19 ble. The statement shall be verified by the insurer's United States
20 manager or other authorized officer.

21 (e) The director shall make available to the public for in-
22 spection the statements and evaluations required by this section.

23 * Sec. 2. AS 21.09 is amended by adding new sections to read:

24 Sec. 21.09.203. CLAIMS REPORTS. (a) As a condition of doing
25 business in the state, an insurer shall before March 2 of each year
26 file with the director a report for each claim made on a policy issued
27 by the insurer in the state if the claim resulted in a

- 28 (1) final judgment;
- 29 (2) settlement;

1 (3) final disposition, other than a judgment or settlement,
2 that did not result in a payment by the insurer on behalf of the
3 insured.

4 (b) A report required by (a) of this section shall be made on
5 the forms provided by the director and contain the information re-
6 quired by the director by regulation.

7 (c) The director shall make the reports required by (b) of this
8 section available to the public in a manner that does not reveal the
9 names of the persons in the reports.

10 (d) An insurer, the agents and employees of the insurer, the
11 director, and the employees of the division are not liable for action
12 taken in good faith to implement or comply with this section.

13 Sec. 21.09.205. FEES. At the time of filing a statement under
14 AS 21.09.200 or a report under AS 21.09.203, the insurer shall pay a
15 fee established by the director under AS 21.06.250.

16 Sec. 21.09.207. PENALTIES. (a) An insurer shall pay the direc-
17 tor \$100 for each day the insurer fails to file a statement as re-
18 quired by AS 21.09.200 or a report as required by AS 21.09.203.

19 (b) If an insurer fails to file by March 1 of each year the
20 statement required by AS 21.09.200 or the report required by AS 21.-
21 09.205, the director may

22 (1) suspend the authority of the insurer to enter into new
23 obligations or issue new or renewal policies of insurance in the
24 state;

25 (2) refuse to accept a fee for continuance of the insurer's
26 certificate of authority under AS 21.09.130;

27 (3) suspend or revoke the insurer's certificate of authori-
28 ty.

29 * Sec. 3. AS 21.34.170 is amended to read:

1 Sec. 21.34.170. [MONTHLY] REPORTS [, SUMMARY OF EXPORTED BUSI-
2 NESS]. On or before the end of each month, each surplus lines broker
3 shall file with the director, on forms prescribed by the director, a
4 verified report in duplicate of all surplus lines insurance transacted
5 during the preceding calendar month showing the following information
6 itemized by kind of insurance:

7 (1) the aggregate gross premiums written; and

8 (2) the aggregate return premiums [BY KIND OF INSURANCE].

9 * Sec. 4. AS 21.34.170 is amended by adding new subsections to read:

10 (b) On or before the end of each calendar quarter, each surplus
11 lines broker, each adjuster that engages in surplus lines insurance,
12 and each business that engages in surplus lines insurance, shall file
13 with the director, on forms prescribed by the director, a verified
14 report of the aggregate claims that were incurred during the quarter
15 and that are known by the broker, adjuster, or business. The report
16 shall include the following information to the extent of the knowledge
17 of the broker, adjuster, or business:

18 (1) the amount of losses experienced in the state, includ-
19 ing amounts paid for the settlement of claims and satisfaction of
20 judgments in the state;

21 (2) amounts held for losses incurred in the state but not
22 reported; and

23 (3) amounts of unpaid claims.

24 (c) The director shall make the reports required by this section
25 available to the public for inspection.

26 * Sec. 5. AS 21.75.130 is amended to read:

27 Sec. 21.75.130. ANNUAL STATEMENT AND CLAIMS REPORT. (a) The
28 annual statement and claims report of a reciprocal insurer shall be
29 made by its attorney and filed with the director, as provided in

1 AS 21.09.200 - 21.09.205 [AS 21.09.200].

2 (b) The statement and claims report shall be supplemented by
3 information that [WHICH] may be required by the director relative to
4 the affairs and transactions of the attorney insofar as they relate to
5 the reciprocal insurer.

6 * Sec. 6. AS 21.88.050(a) is amended to read:

7 (a) The corporation shall

8 (1) in the form approved by the director, issue to all
9 physicians and hospitals who are found to be acceptable risks under
10 standards developed under (5) of this subsection, and who pay the
11 premiums for it, a contract or contracts indemnifying physicians and
12 hospitals and their employees who are health care providers against
13 loss by reason of liability for covered claims for an act or omission
14 in the delivery of professional health care in the [THIS] state, and
15 agreeing to tender on behalf of the physicians and hospitals and their
16 employees who are health care providers a defense to a covered claim
17 in a proceeding brought under AS 09.55.530 - 09.55.560; the limits of
18 liability for policies issued by the corporation shall be approved by
19 the director; the contract shall cover the defense against but need
20 not indemnify liability for punitive damages arising from a covered
21 claim; at the option of the corporation, if approved by the director,
22 and for an additional premium the contract may cover claims against
23 the physician or hospital that arise out of professional services
24 performed by the physician or hospital for any period before the
25 contract is issued, except that coverage will not be provided for a
26 claim already filed or of which the physician or hospital had or
27 reasonably should have had notice at the time the retroactive insur-
28 ance was purchased;

29 (2) charge a premium for the protection provided by the

1 contracts issued by the corporation that [WHICH] shall be determined
2 by the board of governors in accordance with AS 21.88.080 and subject
3 to the approval of the director;

4 (3) comply with or be subject to AS 21.06.090, 21.06.120,
5 21.06.140, 21.06.160, 21.06.250, AS 21.09.180 - 21.09.207 [AS 21.-
6 09.180 - 21.09.200], 21.09.250, 21.09.280, AS 21.12.020(b)-(e),
7 AS 21.18, AS 21.21, AS 21.24 and AS 21.36; and shall be exempt from
8 participation as a member insurer in the Alaska Insurance Guaranty
9 Corporation;

10 (4) carry out the obligations of the contracts issued by
11 the corporation by defending all covered claims made against insured
12 health care providers and by paying all liabilities that [WHICH] are
13 finally adjudicated against the insured health care provider or that
14 [WHICH] may in the opinion of the corporation reasonably be expected
15 to be finally adjudicated against the health care provider to the
16 extent of the contract obligation;

17 (5) establish standards for the acceptability of risks; in
18 establishing these standards the corporation may exclude an applicant
19 for insurance based on individual risk selection factors, but may not
20 exclude an applicant based only on the classification of the appli-
21 cant.
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1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 443 (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 requiring attorneys to make certain litiga-
7 tion reports; requiring reports on certain insurance
8 claims; establishing a system for the collection of
9 certain insurance data; relating to surplus lines
10 insurance; and providing for an effective date."

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

12 * Section 1. FINDINGS. (a) The legislature has extensively investigat-
13 ed

14 (1) the revision of the laws relating to civil liability for
15 bodily injury resulting from tortious acts of insured persons; and

16 (2) the effect of a revision on the provision of insurance at a
17 reasonable cost for risks in the state.

18 (b) During the investigation into this area, the legislature has
19 determined that little actual claim data is available from which to deter-
20 mine

21 (1) how dollars paid for bodily injury losses by insurers are
22 allocated among kinds of damage and levels of loss claims made by individu-
23 als; and

24 (2) what correlations can be made between the size of claims and
25 the approach to adjusting the claims.

26 (c) The legislature has determined that it would be valuable to
27 accumulate in as inexpensive a manner as possible sufficient data on losses
28 experienced by insurers as a result of claims for bodily injury so that a
29 credible base of information can be established from which conclusions

1 about loss adjudication and damage allocation could be made.

2 (d) The legislature has determined that a program to accumulate data
3 under (c) of this section should terminate when sufficient data has been
4 accumulated to establish an adequate data base.

5 * Sec. 2. AS 08.08 is amended by adding a new section to article 5 to
6 read:

7 Sec. 08.08.241. REPORT REQUIRED. (a) Unless the client's
8 insurer, insurance adjuster, or general insurance agent or manager has
9 filed the report required under AS 21.06.320, a person engaged in the
10 practice of law in the state who has represented a client in an action
11 in a court of the state or a federal court in the state shall, within
12 30 days after conclusion of a court action by decision of the trial
13 court if not appealed or decision of the highest court to which the
14 decision was appealed, submit a report under AS 21.06.320 if the
15 action involved a demand on a person for compensation for bodily
16 injuries.

17 * Sec. 3. AS 21.06 is amended by adding new sections to read:

18 ARTICLE 2. INSURANCE COSTS FOR BODILY INJURY COMPENSATION LOSSES.

19 Sec. 21.06.300. STUDY REPORTER POSITION. (a) There is created
20 in the division the position of study reporter appointed by the direc-
21 tor.

22 (b) The study reporter must have the qualifications adequate to
23 perform the duties of the study reporter, including

24 (1) an undergraduate degree in economics, statistics,
25 mathematics, or similar field from an accredited college or univer-
26 sity;

27 (2) experience in the collection, analysis, and presenta-
28 tion of large amounts of data for use in formulating public or busi-
29 ness policy.

1 Sec. 21.06.310. DUTIES OF STUDY REPORTER. (a) The study repor-
2 ter shall

3 (1) gather information on closed claims;

4 (2) prepare a documented report that statistically deter-
5 mines the allocation of insurance costs in the state for the compensa-
6 tion of bodily injury

7 (A) among the types of damages for compensation paid;

8 (B) between compensation for damage and costs of
9 adjustment;

10 (C) among the various categories of

11 (i) adjustment expense;

12 (ii) persons making claims; and

13 (iii) persons claimed against;

14 (D) between insured and uninsured losses;

15 (E) among alternate methods of dispute resolution;

16 (F) among categories of claims by size of claim and by
17 the court in which the claim was filed;

18 (G) among other categories determined by the director
19 to be relevant to the purposes of the study;

20 (3) report the information gathered under this section for
21 each calendar year in statistical form to the director and the legis-
22 lature on or before March 30 of the year following the calendar year
23 being reported.

24 (b) The study reporter may not inquire into qualitative or
25 quantitative comparisons among persons of the same occupation, includ-
26 ing attorneys, insurers, and adjusters.

27 Sec. 21.06.320. REPORTING REQUIRED. Within 30 days of closing a
28 claim, a person licensed as an insurer, adjuster, or general agent or
29 manager under this title shall report the closed claim to the study

1 reporter on the form established by the director, if

2 (1) the person either insures the insured against whom the
3 claim was filed or has assumed the obligation of investigating and
4 adjusting the claim to its conclusion; and

5 (2) the attorney for the person has not filed the report.

6 Sec. 21.06.330. REPORT FORM. (a) The director shall establish
7 by regulation the form for the report required under AS 21.06.320.

8 (b) The form

9 (1) may not require information that is unavailable from
10 the files of the person making the report;

11 (2) may not contain the name or identifying data of the
12 persons involved in the claim, including attorneys and insurers;

13 (3) may not require information that is confidential under
14 Alaska Code of Professional Responsibility Canon 4 from an attorney
15 who is required to report under AS 08.08.241;

16 (4) must consist primarily of blanks, check boxes, and
17 similar means of reporting data;

18 (5) may not require narrative answers beyond one line in
19 length;

20 (6) may only request information relevant to the informa-
21 tion to be gathered by the study reporter under AS 21.06.310.

22 Sec. 21.06.340. VOLUNTARY INFORMATION. A person who investi-
23 gates and adjusts insurance claims but who is not required to report
24 under AS 21.06.320 may contribute reports of closed claims to the
25 study reporter. The study reporter shall take the precautions neces-
26 sary to ensure that the information submitted under this section is
27 accurate.

28 Sec. 21.06.350. PUBLIC INFORMATION AND INSPECTION. (a) Infor-
29 mation provided under AS 21.06.320 and 21.06.340 and all statistical

1 abstracts and summaries prepared from the information are public
2 information, except that data obtained by the director or the study
3 reporter that would identify a person is confidential information and
4 not available for public inspection.

5 (b) The director and study reporter shall take the precautions
6 necessary to ensure that confidential information is not disclosed to
7 the public.

8 Sec. 21.06.360. REVIEW AUTHORITY. (a) The director may inspect
9 the files of a person who files a report under AS 21.06.320 or 21.06.-
10 340 in order to verify that the report complies with AS 21.06.300 -
11 21.06.370 and to determine whether the report form provides all avail-
12 able information relevant to the purposes of AS 21.06.300 - 21.06.370.

13 (b) Information obtained from inspection under (a) of this sec-
14 tion, except the statistical data that becomes part of the reportable
15 data base, is confidential and not available for public inspection.

16 Sec. 21.06.370. DEFINITION. In AS 21.06.300 - 21.06.370,
17 "closed claim" means a demand that is made on a person for money
18 damages for bodily injury arising from alleged tortious conduct of the
19 person, and that meets the following criteria

20 (1) the tortious conduct occurred in the state, or the claim was
21 or could have been litigated in a court of the state or in a federal
22 court in the state; and

23 (2) the claim has been concluded by settlement, by judgment of
24 the trial court if not appealed, or by judgment of the highest court
25 to which the claim was appealed.

26 * Sec. 4. AS 21.34.170 is amended to read:

27 Sec. 21.34.170. [MONTHLY] REPORTS [, SUMMARY OF EXPORTED BUSI-
28 NESS]. On or before the end of each month, each surplus lines broker
29 shall file with the director, on forms prescribed by the director, a

1 verified report in duplicate of all surplus lines insurance transacted
2 during the preceding calendar month showing the following information
3 itemized by kind of insurance:

4 (1) the aggregate gross premiums written; and

5 (2) the aggregate return premiums [BY KIND OF INSURANCE].

6 * Sec. 5. AS 21.34.170 is amended by adding new subsections to read:

7 (b) On or before the end of each calendar quarter, each surplus
8 lines broker, each adjuster that engages in surplus lines insurance,
9 and each business that engages in surplus lines insurance, shall file
10 with the director, on forms prescribed by the director, a verified
11 report of the aggregate claims that were incurred during the quarter
12 and that are known by the broker, adjuster, or business. The report
13 shall include the following information to the extent of the knowledge
14 of the broker, adjuster, or business:

15 (1) the amount of losses experienced in the state, includ-
16 ing amounts paid for the settlement of claims and satisfaction of
17 judgments in the state;

18 (2) amounts held for losses incurred in the state but not
19 reported; and

20 (3) amounts of unpaid claims.

21 (c) The director shall make the reports required by this section
22 available to the public for inspection.

23 * Sec. 6. AS 08.08.241, and AS 21.06.300, 21.06.310, 21.06.320, 21.06.-
24 330, 21.06.340, 21.06.350, 21.06.360, and 21.06.370 are repealed March 31,
25 1992.

26 * Sec. 7. AS 21.06.300, 21.06.310, and 21.06.330, as added by sec. 3 of
27 this Act take effect July 1, 1986.

28 * Sec. 8. Sections 1 and 2 of this Act, and AS 21.06.320, 21.06.340,
29 21.06.350, 21.06.360 and 21.06.370, as added by sec. 3 of this Act, take

1 effect January 1, 1987.

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