

SJR

45

SJR 45: Summary

THIS MEASURE URGES CONGRESS TO REVISE THE PRESENT SYSTEM FOR COMPENSATING INJURED FISHERMAN, AND TO CREATE A SYSTEM OF COMPENSATION WHICH IS BOTH FAIR TO THE FISHERMAN AND AFFORDABLE TO VESSEL OWNERS.

THE US CONGRESS IS CURRENTLY DISCUSSING ALTERNATIVE COMPENSATION SYSTEMS FOR INJURED COMMERCIAL FISHERMAN, AND THE PASSAGE OF THIS RESOLUTION WILL COMMUNICATE OUR SUPPORT FOR THEIR EFFORTS. I URGE FAVORABLE CONSIDERATION BY THE BODY.

CHAIRMAN'S INFORMATION: SJR 45

1) BILL TITLE: "Relating to compensation for injuries to commercial fisherman."

a) Introduced: Senate Labor and Commerce Committee

b) Co-sponsors:

2) INTENT: This measure urges Congress to revise the present system for compensating injured fisherman, and create a system of compensation which is both fair to the fisherman and affordable to vessel owners.

FISCAL NOTE: 0 (We could put together an L&C Committee F/N if you would like.)

3) ADDITIONAL REFERRALS: Sen Rules

4) PUBLIC HEARINGS:

a) Sponsor:

b) Public Witnesses:

5) BILL ACTION:

a) Hold in committee?

b) Assign to sub committee for further review?

c) Move from committee?

d) Close public hearings?

6) COMMITTEE ACTION?

a) amendments?

b) CS adoption?

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No.: SJR 45
 Title: Relating to compensation for injuries to commercial fisherman.
 Sponsor: Senate Labor and Commerce
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: None
 BRU: _____
 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	

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: Michael Thill, Aide
 Division: Senate Labor and Commerce Committee

Phone: 465-3844
 Date: 6 April, 1986

Approved by Commissioner: Senator Zharoff, Chairman
 Agency: Senate Labor and Commerce Committee

Date: 7 April, 1986

Distribution (by Agency preparing fiscal note):

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

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
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Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SJR 45: Summary

This resolution urges Congress to revise the present system for compensating injured commercial fisherman. The resolution finds that liability insurance for commercial fisherman is often unavailable, too expensive for many fisherman, and the method of compensation is inefficient. Additionally, the resolution references 3 studies which support the need for changes to the system of compensation for injured fisherman.

Introduced: 3/3/86
Referred: Labor and Commerce

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2

SENATE JOINT RESOLUTION NO. 45

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

Relating to compensation for injuries to

6

commercial fishermen.

7

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

8

WHEREAS the United States commercial fishing industry is facing a

9

crisis in the cost and availability of marine insurance; and

10

WHEREAS the Alaska commercial fishing industry is experiencing severe

11

economic costs as a result of these problems; and

12

WHEREAS these costs are having a detrimental impact on the people and

13

the communities of the state; and

14

WHEREAS the most troublesome part of the marine insurance crisis is

15

the method by which injured fishermen are compensated and the resultant

16

impact on the protection and indemnity insurance (P&I) policy; and

17

WHEREAS the system for compensating injured commercial fishermen is

18

established under federal law; and

19

WHEREAS a 1957 survey and study sponsored by the U.S. Fish and Wild-

20

life Service concluded that the system "...disregards completely the finan-

21

cial, economic, and operational characteristics of the industry"; and

22

WHEREAS the study also stated that "the system is unjust because it is

23

wasteful and slow and it fosters misunderstanding and bitterness between

24

employer and employees"; and

25

WHEREAS the study recommended that the system be replaced by a more

26

equitable one; and

27

WHEREAS a more detailed study sponsored by the National Oceanic and

28

Atmospheric Administration in 1976 recommended the consideration of an

29

alternative liability system; and

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Referred: Labor and Commerce

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COMMERCE COMMITTEE

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WHEREAS a more detailed study sponsored by the National Oceanic and

28

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29

alternative liability system; and

1 WHEREAS a 1985 study sponsored by the National Council of Fishing
2 Vessel Safety and Insurance also recommends sweeping changes in the exist-
3 ing system of compensating injured fishermen and warns that "This is ...
4 probably the last time this issue will be presented before Congress.
5 Either the system will be changed, or the industry will not be strong
6 enough to return"; and

7 WHEREAS the Congress is presently evaluating the problem and consider-
8 ing possible solutions to it;

9 BE IT RESOLVED by the Alaska State Legislature that Congress is re-
10 spectfully requested to take whatever action is necessary to revise the
11 present system for compensating injured fishermen so that it will be fair
12 to commercial fishermen and affordable by the vessel owners.

Alaska State Legislature

Advisory Council Members
Senator Bennett, Chairman
Senator Abood
Senator Kerttula
Senator Sackett



P.O. Box V
State Capitol
Juneau, Alaska 99811
Phone: (907) 465-3114

Senate Advisory Council

MEMORANDUM

TO: Senator Fred Zharoff
Alaska State Legislature

FROM: Bill Hall, *Bill*
Senior Advisor

DATE: March 14, 1986

SUBJECT: SJR 45 regarding changes to Federal Maritime Law (Jones Act) as it relates to marine insurance.

Attached to this memo is a copy of a resolution under consideration by the Legislature of Hawaii regarding the above mentioned subject. The Hawaiian resolution (unlike our resolution) makes a specific recommendation to adopt a Federal workmen's compensation system for injured fishermen in place of the existing system.

I had recommended that the Alaska resolution (SJR 45) not contain any specific recommendations because I did not believe that we were well enough informed to make an intelligent decision at this time. I still believe that we need more information on this subject, but I am more convinced than ever that we should consider a workmen's compensation program as a possible solution. I say this with the knowledge that Al Burch of the Alaska Dragger's Association has testified at a Congressional hearing on the subject that a workmen's compensation system would not be acceptable because it would be unaffordable to boat owners. I am not convinced that this is true, and I am working with Paul Troeh, Deputy Director of the Division of Insurance to develop some cost data on the system.

Congressional hearings on this subject are scheduled to begin April 16. There are three probable options that will be considered regarding Congressional action. They are:

1. Maintain the existing system by doing nothing;
2. Modify the existing system, and;
3. Replace the existing system with a workmen's compensation program.

Senator Zharoff
March 14, 1986

I don't believe that there is support at this time for Option 1. However because of a study sponsored by the National Council of Fishing Vessel Safety and Insurance there is considerable interest in a proposed solution that would constitute Option Number 2. There is also some support developing for Option Number 3. Sources in Washington, D.C. do not believe that Congress will complete action on any maritime insurance legislation this year. However, the process of considering options will begin, and it is important that the needs of the Alaskan fishing industry be considered in that process.

Because this is such an important issue, I have been working with Jack Cadigan, Executive Director of UFA, and Craig Wiese of the Alaska Sea Grant Program in organizing a meeting on the subject to be held in Juneau on April 4 of this year. UFA will host the meeting, and will invite every fishermen's organization in the State (including those organizations not affiliated with them) to send a representative. It is hoped that this meeting will result in the development of an Alaskan Fishing Industry consensus as to what specific changes in Federal Maritime Law are the most desirable. It is also planned that the meeting will address the subject of insurance pools so that some indication of interest will be available regarding SB 442.

I will keep you informed on the results of these activities. Please let me know if you have any suggestions or requests.

Enclosure
AWH:er

(To be made one and seven copies)

THE SENATE
THIRTEENTH LEGISLATURE, 19 86
STATE OF HAWAII

S. R. NO.

SENATE RESOLUTION

REQUESTING THAT THE UNITED STATES CONGRESS AMEND THE JONES ACT TO EXCLUDE COMMERCIAL FISHERS.

WHEREAS, there are two chapters of federal law which apply to persons injured in the course of maritime employment; and

WHEREAS, the Longshoremen's and Harbor Worker's Compensation Act affords quick monetary compensation to all injured maritime workers except members of the crew and masters, while the Jones Act covers these two categories; and

WHEREAS, the two pieces of legislation appear to be mutually exclusive, in that workers covered under the Jones Act do not have access to the remedies available under the Longshoremen's and Harbor Worker's Compensation Act; and

WHEREAS, rising insurance rates for commercial fishers who are subject to the Jones Act have increased costs and slowed expansion in this vital industry; and

WHEREAS, the Jones Act, unlike the Longshoremen's and Harbor Worker's Compensation Act, has no provision rendering inoperative state laws which create parallel remedies such as workers' compensation; now, therefore,

BE IT RESOLVED by the Senate of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1986, that the Legislature requests the United States Congress to amend the Jones Act to exclude commercial fishers and amend the Longshoremen's and Harbor Worker's Compensation Act to include commercial fishers; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Speaker of the United States

(To be made one and seven copies)

THE SENATE
THIRTEENTH
..... LEGISLATURE, 19 86

STATE OF HAWAII

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S.R. NO.

House of Representatives, the President of the United States
Senate, and to each member of Hawaii's congressional delegation.

OFFERED BY: _____

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House of Representatives, the President of the United States
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**SENATE ADVISORY COUNCIL
ALASKA STATE LEGISLATURE
POUCH V
JUNEAU, ALASKA 99811**

A REPORT ON THE COST AND AVAILABILITY
OF MARINE INSURANCE IN ALASKA

BY

A. W. HALL

SENIOR ADVISOR, SENATE ADVISORY COUNCIL

30 January 1986

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INTRODUCTION

The subject of this report is the Alaska commercial fishing industry and the problems it is experiencing in obtaining fishing vessel insurance. The report, which is based on research conducted over the past three and one half months, contains recommendations on solutions to these problems with specific attention to the subject of pools as a form of self insurance.

One important, and inescapable, conclusion that the research has produced is that the cost and availability of fishing vessel insurance in Alaska is not the only problem that needs to be addressed. Rather, it is a symptom of the real problem which is the poor safety record of the Alaskan fishing industry. This record documents the loss of too many human lives and fishing vessels. The cost of these losses in terms of human suffering and financial impact is unacceptable on any social scale and is certainly unaffordable on any economic scale.

The preceding statement is not intended to suggest that nothing can be done to improve the cost, the availability or the quality of fishing vessel insurance. There is room for improvement. However, improvement cannot occur without either an overall improvement of the safety record of the fishing industry, or the development of a means by which the safe fisherman can be distinguished from the unsafe fisherman. In the latter situation, the benefits of improved insurance would not be shared by the fishing industry as a whole, but only by those who could demonstrate that they were safe operators. From a social perspective it is obvious that such an approach by itself would not be acceptable. However, in addition to efforts to improve the entire Alaska fishing industry's safety record, it is an important part of any overall solution.

One fundamental fact is absolutely clear. The need for insurance is a function of the risk inherent in the activity to be insured. If there is no risk of loss then there is no need for insurance. Furthermore, the cost of insurance is determined by the magnitude of the risk. If the risk of loss can be reduced or eliminated then so can the need for (and the cost of) insurance. To the extent that risk is a function of human behavior, it will be influenced by any change in human behavior. The challenge then appears to be one of determining the best and most acceptable method available for changing human behavior.

I. BACKGROUND TO THE PROBLEM

There is no law or regulation that requires fishing vessel owners to purchase marine insurance. However, lenders such as banks or the State of Alaska Commercial Fishing Loan Program

require that a borrower purchase specified insurance coverage as a condition of the loan agreement which is required by the mortgage document. Because the majority of fishing vessels in Alaska are subject to a marine mortgage, they are required to have insurance. If a vessel owner does not or cannot obtain the required insurance, then he is in violation of his mortgage agreement which places him in default and subject to foreclosure proceedings.

Fishing vessel owners are required by their mortgage holders to obtain two types of marine insurance coverage. One is a form of property and casualty insurance called hull and machinery and the other is a form of liability insurance called protection and indemnity or P & I. These two types of insurance are defined in two separate policies and are often provided by different companies or groups of companies.

Beginning in 1985 Alaskan fishermen began experiencing problems with both the cost and the availability of marine insurance. Premiums for typical hull and machinery policies for the Alaska salmon fleet on the average increased by approximately 30% with increases in some areas as high as 50 percent. Premiums for P & I insurance increased an average of 50 percent. Furthermore, coverage for some classes of vessels such as older wood boats or some Bering Sea crab boats was, and still is, unavailable at any price. Also, some vessel owners found the amount of their coverage reduced at the same time that their premiums were increased.

II. REASONS FOR THE PROBLEM

A. THE FISHING INDUSTRY

Faced with a situation that threatens their livelihood, many fishermen have been asking questions such as "Why do we have this problem?", "Who is responsible?", "What can we as fishermen do to solve it?", and "What can government do to help us?". The answers to these questions can be found in an examination of the insurance industry with particular regard to marine insurance and the fishing industry with particular regard to its safety record. Factors and circumstances unique to both industries have combined to create a multifaceted problem the solution of which will require the cooperation of fishermen, insurance companies and government.

Fishing has historically been a high risk industry. However in recent years the loss record of the U. S. fishing industry in terms of both money and human lives has been deteriorating. A recent U.S. Coast Guard study has revealed that commercial fishermen have the worst safety record of all U.S. industries with a death rate of 7 times the national average for all industry groups. Loss rates for large fishing vessels are 5 to 7 times greater than loss rates for U.S. ocean going cargo ships with a total of 2,414 documented fishing vessels lost at sea during the twelve years from 1970 to 1982. Also during that

period, another 9,503 vessels were damaged at sea, and deaths from loss of vessel, damage to vessel, or accident onboard vessel, numbered 1,271.

There is reason to believe that these increases are the result of recent developments in two areas: the increased importance and value of fish as a food source, and the passage of legislation that extended the jurisdiction of the United States over its fisheries resources to 200 miles. With these two developments the number of fishermen employed in the U.S. fishing industry has increased from 140,538 in 1970 to an estimated 223,000 in 1983. For those same years the number of fishing vessels has increased from 87,161 to 127,100. These increases have had three consequences. One is an increase in the overall value of the U.S. fishing fleet. A second is an increase in the cost and sophistication of the typical fishing vessel, and the third is a shortage of experienced and qualified fishermen available to operate the increased number of vessels. These factors, combined with the instability inherent in the fishing industry as a result of fluctuations in the availability of fish stocks as well as their market prices, have contributed to a situation where the fisherman is often under great economic pressure to produce. He is therefor forced to expose himself to risks that he would normally avoid.

The fundamental problem is not the cost or unavailability of insurance. Rather it is the poor safety record of the fishing industry which has produced an unacceptably high loss of human life and financial investment. But, even with this high rate of losses it is theoretically possible to provide insurance coverage if the insurance companies could quantify the risk and had the financial capacity to cover the losses. However, the price that would have to be charged for such insurance would most probably be unaffordable, and that is in fact one of the facets of the present problem. So, one of the major reasons for recent increases in the cost of fish boat insurance is the high rate of losses experienced by the U.S. fishing industry. Also, at the present time the U.S. insurance industry because of heavy financial losses, has lost the capacity to write all the insurance for which there is a demand. This has also contributed to the increase in premiums as well as the decrease in availability. The functional aspects of this problem must therefor be examined in terms of the present structure and status of the insurance industry.

B. THE INSURANCE INDUSTRY

Regulation of the insurance industry has been delegated to the states by the federal government. The states have vested their regulatory powers in insurance commissioners who through a national organization have worked to promote uniformity in the regulatory process. One of the generally accepted uniform principals is the requirement that an insurance company must have one dollar in reserves for every three dollars of insurance

that it writes. The amount of reserves that a company has then determines its capacity to write insurance. If a company suffers a decrease of reserves through payment of claims or investment losses then it must reduce the amount of insurance that it writes.

Historically the insurance industry has been a cyclical business alternating from periods of profit to periods of losses. Unfortunately, as a result of a cycle begun in the late 1970's the industry is now going through a down cycle of unprecedented proportions. Consequently, its capacity to write insurance has been significantly diminished; forcing many companies to cut back or eliminate not only the amount but often the type of insurance that they were writing. This has impacted the insurance market in Alaska by reducing the number of companies writing marine coverage from over 30 to less than 5, and those companies have both raised their rates and limited the amount of coverage that they are writing.

One reason for this situation is the fact that fish boat insurance constitutes only one tenth of one percent of the business written by insurance companies in the United States. It is also a category of insurance that has not been very profitable. So, when insurance companies are forced to reduce the amount of insurance that they are writing as a result of their diminished capacity; they naturally eliminate those categories of coverage that were the least profitable and that generated the least amount of business.

It is expected that as underwriting companies replenish their reserves through increases in the premiums charged, the number of companies writing marine coverage will increase. However, it is not expected that premiums for hull and machinery coverage will be decreasing as they are presently at levels which are considered to be the minimums necessary to support the coverage being written at the rate that losses are being experienced.

C. FEDERAL MARITIME LAW

Marine insurance like other forms of insurance is regulated by the states. However, because federal maritime law governs the ownership and operation of documented fishing vessels, the extent and nature of insurance contracts and their application are also subject to federal law. This is particularly true in the area of liability insurance where federal law governs the method by which injured fishermen are compensated. Unfortunately this system of compensation which was designed to protect the well being of merchant seamen has not been well suited to the needs and capabilities of the nation's commercial fishing industry. A study sponsored by the federal government during the 1950's included the following criticism about this method of compensating injured fishermen.

... it disregards completely the financial, economic, and operational characteristics of the industry. Furthermore, the system in itself is unjust because it is wasteful and slow and it fosters misunderstandings and bitterness between employer and employees. Moreover, it encourages the use of dishonest methods by both parties because court awards often are not in proportion to the employee's injury or need.

This 30 year old criticism is still valid today and if anything, the situation is now even worse because of two developments. In 1981 the Reagan administration closed the Public Health Service Hospitals to commercial fishermen thereby eliminating the free medical care that they had previously received. As a result of this the burden for providing medical care fell on the boat owner who had to provide for it through his protection and indemnity insurance. This of course increased the amount of claims paid by insurance companies (which they had not anticipated). It also placed the injured fisherman in an adversarial relationship with his employer as a claimant under the insurance policy or as a plaintiff in a court of law. The second development has been the increasing number of personal injury claims being filed by fishermen in the courts. In this regard the fishing industry is not unlike other industries that are now seeking relief through legislation that would reform the nation's tort laws. However, unlike other industries, the fishing industry cannot obtain relief through changes in state law. It must seek changes in federal law which is a much more difficult challenge.

III. POSSIBLE SOLUTIONS

Because, as has previously been stated, the problem of fish boat insurance is a multifaceted one, there is no simple, comprehensive solution. However, there are opportunities for improving the situation if the problem is broken down into some of its constituent parts. This section is therefore organized into subsections each of which contains a definition of a problem with recommendations for possible solutions to that problem.

A. IMPROVE FISHING INDUSTRY SAFETY RECORD

If the costs associated with losses in the fishing industry can be reduced, then the costs that must be bourn by a system of insurance will be less. If the cost of providing insurance coverage decreases, then the cost to those purchasing the insurance should also decrease. One means to achieve a reduction in losses is to improve the safety record of the fishing industry, and this can only be done by changing human behavior. Options available for changing human behavior include changes through the force of law, changes through economic requirements, and changes through economic incentive.

Opportunities for legislating requirements for human conduct include a.) extending the jurisdiction of existing federal laws and regulations from the U.S. maritime industry to the fishing industry and b.) passage or modification of state laws and regulations governing the operations of the fishing industry.

At the present time the option of extending federal regulatory authority to the fishing industry is not a politically viable option. The coast guard has testified at recent congressional hearings that they do not presently have the funding available to pay for implementation of such a program, and in fact they have been threatened with substantial budget cuts by the Reagan Administration over the past several years. Now, with the problems created by passage of the Gramm-Rudman legislation which requires congress to balance the budget within the next several years, it appears that additional budget cutting will be necessary. It is unlikely that the coast guard will escape this process, and it is virtually certain that their budget will not be increased to fund a new program of fishing vessel safety.

Because federal law preempts state law in the jurisdiction of the nation's maritime industry (which includes the fishing industry), the states have limited authority to regulate. However, within that limitation, there does appear to be some opportunity for regulation in the form of requirements for safety equipment as a condition of receiving a commercial fishing license. The authority for the state to do this has not been definitively determined. But, based on court decisions over the past several years and the a refusal of the federal government to exercise their authority, there appears to be some opportunity for the state to act.

One area in which the state's authority to act is not in doubt is the existing body of laws and regulations governing commercial fishing in the state. There is evidence that regulations determining the opening and closing dates of fishing seasons, the areas to be fished, and the type or size of vessels licensed to fish all have an impact on the risk to which fishermen and their vessels are exposed. For this reason it would seem prudent that safety should be a required consideration in the development of such regulations and laws.

The option for changing human behavior as a condition of receiving insurance (which would be change through economic requirement) has been rejected by the insurance industry. This possibility had been suggested by representatives of the U.S. Coast Guard in testimony given to a congressional committee in Seattle last August. The coast guard had testified that they were unable and unwilling to begin regulation of the fishing industry, but that they were in the process of developing a set of voluntary safety standards. They suggested that the insurance industry could require compliance with the standards as a condition of obtaining insurance. The insurance industry representatives rejected this suggestion stating that the

promotion and enforcement of safety standards was not their business.

The last option for changing human behavior through economic incentives may be the best opportunity available to the commercial fishing industry. But, it is an opportunity only if a mechanism can be found for implementing it. That mechanism may very well be the formation of self insurance programs which would place the responsibility for regulation on the fishing industry itself. This approach has in fact worked very successfully for a number of fishermen pools that have been operating out of the state of Washington since the early 1940's. These pools, which refer to themselves as funds, insure many boats that operate in the Alaskan fisheries from Kodiak to Ketchikan. However, because they do not wish to be subject to the authority of state insurance regulatory agencies and their requirements, they studiously avoid referring to their activities as constituting a form of insurance. And in fact the bylaws of one such fund contains the following statement, "No insurance business of any kind shall be done as such business is understood under the statutes of the State of Washington." Notwithstanding the foregoing, the pools have successfully provided economic protection to fishing vessel owners for over 40 years, and they have had an extremely good record. The following quotation from the bylaws of one of these pools defines its purpose and serves to illustrate its contribution to the promotion of safety at sea.

The purpose of this organization is to create and maintain a fund for the reimbursement of marine losses suffered by members occasioned by perils of the seas or fire or by certain collision liabilities; to work for the elimination of careless and reckless operation of fishing vessels; to maintain staunch and seaworthy fishing vessels; and to afford assistance to fellow member's vessels in distress at a reasonable rate of compensation.

B. INSURANCE POOLS

The foregoing section regarding fishermen's insurance pools addresses the value of self insurance as a mechanism for changing human behavior as it relates to safety in the fishing industry. This value can be viewed as a long term social value that results from an ongoing program to reduce the loss of human lives and vessels to the Alaskan fishing community. However another potential value of insurance pools lies in the opportunity they offer for fishermen who are safe operators to differentiate themselves from fishermen who are unsafe operators. By so doing, the good operators will benefit from an insurance program the cost of which is based on their record of operations and not the record of the fleet in general. One additional advantage to such a program would be a lower cost due to the absence of the need for the program to generate profits for underwriters. These values can be viewed as short term economic values that improve the profitability of the Alaskan fishing community.

As previously stated, the Washington state based fishermen's insurance pools (as they are popularly called) have been operating in the Alaskan fisheries for over 40 years. However, in their present form, they are technically not in compliance with Alaskan law, and are therefore illegal. Nevertheless, they have been providing a valuable and a reliable service to the fishermen of both Washington and Alaska. And with the present crises that exists in the marine insurance industry, it would not be prudent to reduce the amount of protection available to the fishing industry. On the contrary, it would seem that a prudent course of action would involve passage of legislation that would permit the formation of Alaska based fishermen's insurance pools.

C. FISHERMEN'S COMPENSATION SYSTEM

The subject of marine liability insurance has been examined in the previous section of this report entitled "FEDERAL MARITIME LAW". That section outlined the inadequacies of the present system for providing fishermen's compensation and suggested the need for changes to the federal law that governs the system. It is important to note here that the problems associated with this situation are not new. They have been the subject of a number of congressionally funded studies going back as far as the early 1950's all of which have recommended changes to the federal law.

Now, once again, there is another congressionally funded study being conducted, and there are legislative solutions being considered. This latest effort is of greater importance than past efforts because of the increased liabilities (and therefore costs) to which boat owners are now exposed. The increased exposure of the vessel owner is the direct result of court decisions that have broadened the circumstances under which a boat owner is liable for accidents to crewmen both on and off the vessel. It is therefore extremely important that the fishing industry of each state participate in the development of a national fishing industry consensus on the best solution to this problem so that the appropriate legislation can be developed and passed by congress. Without some modification of the law, the cost of P & I insurance may very well become unaffordable.

There is also one area of Alaska's workmen's compensation law that has been identified as a problem for fishing vessel owners. As a result of a recent court decision, fishing vessel owners are subject to the requirements of the workmen's compensation laws in situations where their crewmen have shore side duties. The court decision stated that a fishing vessel crewman who was injured while performing duties on shore was eligible to collect under the law. With this judgement, crewmen enjoy a duplication of remedies where they can collect under the workmen's compensation no-fault system while at the same time

retaining the right to pursue existing remedies under maritime law. In order for a vessel owner to comply with the law and protect his investment, he must now obtain both P & I insurance as well as workmen's compensation coverage. This duplication is not necessary to protect crewman and it creates an unnecessary financial burden on the boat owner who may not be able to afford the increase costs.

IV. RECOMMENDATIONS

Preceding sections of this report have identified problems and made general suggestions for solutions. This section contains specific recommendations for action by the Alaska Legislature.

A. INSURANCE POOLS

It is recommended that legislation be passed that contains provisions to:

1. authorize the Director of Insurance to develop, with input from interested fishermen groups, a plan for the creation and implementation of marine insurance reciprocal associations for the purpose of providing property and casualty insurance coverage for commercial fishermen,
2. authorize the Director of Insurance to promulgate regulations necessary for the implementation and operation of marine insurance reciprocal associations,
3. authorize the Director of Insurance to set the level of surplus required of marine insurance reciprocal associations by regulation,
4. authorize approved marine insurance reciprocal associations to issue policies that are nonassessable,
5. appropriate to the Division of Insurance the funding necessary to accomplish the foregoing tasks.

Because of the present crises in insurance many groups are considering the possibilities of self insurance as a solution to their problems. This is true for many different kinds of insurance in many different parts of the nation. For all of these groups a fundamental question that they must answer is "Who will fund the program?". One group in New Jersey that is in the process of forming a fishermen's mutual insurance association with the assistance of a combined federal and state grant is considering the possibility of state loan guarantees as a back up to the contributions of policy holders. Other groups have indicated an interest in obtaining financial assistance from the government.

That is not the case in regard to this recommendation. For one reason, the recent decline in state oil revenues makes the availability of state funding unlikely. However, what is possibly a more important reason is the need to maintain the ability of any reciprocal to be selective in its choice of participants. If the use of public funds were to compromise this freedom of choice to any degree, it could threaten the success of the program.

The question still remains as to how a marine insurance reciprocal can be funded. The answer that offers the greatest promise at this time is through a combination of policy holder contributions in conjunction with excess insurance obtained from companies known as reinsurers. The important point to make is that persons expert in the field of marine insurance believe that it is possible to structure a marine insurance reciprocal program without the need for financial assistance from the state. However, the best method by which this can be done is not now known because more information needs to be developed as to the number of fishermen interested in such a program and the availability of reinsurers willing to participate.

The foregoing recommendation has therefor been developed because it offers a solution to the problem that provides the maximum flexibility at the lowest cost.

B. FISHERMEN'S LIABILITY INSURANCE

It is recommended that the Alaska Legislature hold hearings on the problems relating to the methods by which injured fishermen are compensated, and its impact on the cost and availability of protection and indemnity insurance. The purpose of the hearings would be to develop an Alaskan consensus on the best solution to the problem which would be communicated to the U.S. Congress in the form of a legislative resolution.

This subject is timely because a study has recently been completed on the problem which was funded by the National Council of Fishing Vessel Safety and Insurance. The study contains recommendations for congressional action (including amendments to the Jones Act) and will be considered by congress in the coming months. It is important that the recommendations of the report be examined to determine if they offer the best solution to the problem for Alaska's fishermen. Based on reactions to a preliminary version of this report there is reason to believe that there is some question as to whether or not it constitutes the best approach to the problem.

It is important to note here that the earlier recommendation for the formation of insurance pools for property and casualty insurance intentionally omits liability insurance. This is because the cost of a liability insurance program is difficult to quantify because of the system for determining awards for claims. This subjects liability insurance programs to great risk since the cost of the coverage is potentially open ended. A

fledgling self insurance program with limited capital reserves should not be subject to such risk. Fortunately, such insurance is obtainable from private insurance companies although at a high premium. If the present efforts to improve the system of providing compensation for injured fishermen are successful, then premium costs should be reduced.

C. THE ALASKA WORKMAN'S COMPENSATION LAW

It is recommended that an amendment be passed to the Alaska Workman's Compensation law that exempts commercial fishermen from the provisions of the act. This is desirable for the following reasons.

1. It was not the original intent of the act that commercial fishermen be covered by it.
2. Fishermen have access to a system of injury compensation under maritime law.
3. A duplication of programs is unnecessarily confusing and is unaffordably expensive.
4. Although described as inadequate, the existing system of compensating injured fishermen is presently under study for the purpose of possible congressional overhaul. A solution defined by federal law would be much more definitive and efficient than a system characterized by overlapping jurisdictions and duplications of effort and cost.

D. COMMERCIAL FISHERIES MANAGEMENT

It is recommended that a legislative resolution be passed requesting that safety be a factor to be considered in the development of all fishery management plans and regulations.

E. EDUCATION

It is recommended that the University of Alaska be directed to investigate the possibility of developing instructional programs on fishing vessel risk management or safety at sea that could be taught through the marine advisory program or community college system.

It is quite possible that a program such as this could be an important part of any organized effort to improve the safety record of the fishing industry. Like driver education programs it could be used as a means to improve individual abilities using reduced insurance premiums as an incentive.

F. MANDATORY SAFETY REQUIREMENTS

It is recommended that study and public hearings be conducted on the subject of state mandated safety requirements. According to information provided by the Legislative Affairs Division of Legislative Counsel, the state may have limited authority to require that certain safety equipment be carried on commercial fishing vessels as a condition of obtaining a commercial fishing license. This authority might also extend to requirements for demonstration of minimum competency or experience in the operation of commercial craft. This subject will most certainly generate considerable controversy, and therefor should be approached with great care for its potential impact on the commercial fishing industry.

V. CONCLUDING REMARKS

The present crises in marine insurance is a result of events that have occurred in both the fishing and the insurance industries. Some improvement in the cost and availability of marine insurance for Alaska's fishermen may occur as a result improving economic conditions in the insurance industry. However, substantial improvement in these areas cannot occur without a reduction in the loss of human life and the destruction of fishing vessels suffered by the commercial fishing industry.

Historically, the United States fishing industry has not been subjected to the extent of government regulation in the area of safety that other industries have had to endure. This freedom has been one of the attractions of the industry that has been valued and protected by many of its participants. However there are those who would now argue that fishermen should not have the right to be reckless with their own lives and certainly not the lives of others. Freedom in this sense may very well be defined by the song verse; "Freedom's just another word for nothing left to lose."

1 IN THE _____

2

3

BILL NO. _____

4

IN THE LEGISLATURE OF THE STATE OF ALASKA

5

FOURTEENTH LEGISLATURE - SECOND SESSION

6

A BILL

7

For an Act entitled: "An Act relating to marine insurance;
8 amending Alaska Statutes 21.75.020,
9 21.75.050, 21.75.200 and 21.80.020;
10 and providing for an appropriation."

11

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

12

* Section 1. AS 21.75.020 is amended by adding a new
13 section to read:

14

(C) The Director shall specify by regulation the
15 types of marine risk a reciprocal may insure.

16

17

* Section 2. AS 21.75.050 is amended by adding a new
18 section to read:

19

(D) Notwithstanding the foregoing provisions and
20 the provisions of Section 21.75.230, if a reciprocal
21 insurer insures marine risks the level of surplus shall
22 be set by regulation by the Director.

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1 * Section 3. AS 21.75.200 is amended by adding a new
2 section to read:

3 (E) A reciprocal insurer that insures marine
4 risks as authorized by AS 21.75.020(C) may issue
5 policies that are nonassessable.
6

7 * Section 4. AS 21.80.020 is amended by adding a new
8 sentence to read:

9 A domestic reciprocal that insures marine risks is
10 exempt from the requirements of this chapter.

11 * Section 5.

12 The Legislature recognizes the crisis that has
13 arisen in the marine insurance market now faced by
14 persons who fish commercially in Alaskan waters. The
15 development of marine insurance reciprocals will help
16 remedy this crisis. The Legislature recognizes that,
17 particularly in light of the depression affecting
18 segments of the fishing industry, fishers are poorly
19 situated to bear the cost of developing marine insur-
20 ance reciprocals. The sum of \$200,000 is appropriated
21 to the Division of Insurance for the purpose of con-
22 tracting for legal and management services necessary to
23 develop marine insurance reciprocal pro forma documents
24 in compliance with A.S. 21.75.060, 21.75.080, 21.75.100,
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21.75.130, 21.75.170, policies and such other subscriber rules and management procedures as may be appropriate.

* Section 6.

This Act takes effect immediately in accordance with AS 01.10.070(c).

APPLICATION FOR MEMBERSHIP

United Marine Fund

HAROLD S. DNQSTAD, Manager

2400 N. W. 64th

SEATTLE, WASHINGTON 98107

DATE _____

CORPORATE NAME _____

APPLICANT INFORMATION: _____

NAME _____ PARTNER, IF ANY _____

ADDRESS _____ PARTNER'S ADDRESS _____

PHONE _____ YOUR AGE _____ YRS. OF FISHING _____ ON THIS BOAT _____

NAME OF PREVIOUS BOAT _____ EVER REFUSED BY A POOL? _____

EVER LOST A BOAT OR BAD CLAIM _____ IF YES, EXPLAIN _____

PRESENT HULL INSURER _____ AMOUNT _____

EXPIRATION _____ DATE TO BEGIN MEMEBRSHIP _____

MEMBERS OR DIRECTORS KNOWN _____
if additional space needed use reverse side

VESSEL INFORMATION:

VESSEL NAME _____ REG. LENGTH _____ O.A. LENGTH _____ BEAM _____

YEAR BUILT _____ WOOD, OR? _____ TYPE FISHING _____

AREA FISHED _____ HOME PORT _____

ENGINE(S) MAKE _____ H.P. _____ MODEL _____ YEAR INST. _____

LAST OVERHAUL (MAJOR) _____ DO YOU HAVE: BILGE ALARM? _____ FIRE ALARM? _____

NUMBER OF STATIONS (FIRE) _____ AUXILIARY CHARGING? _____

COVERAGE INFORMATION: _____

RESALE VALUE OR PURCHASE PRICE _____ AMT. DESIRED, THIS POOL _____

OTHER HULL COVERAGE TO BE CARRIED \$ _____ WHERE? _____

ALTERNATE SKIPPER, IF ANY _____

MORTGAGE TO _____ ADDRESS _____

MORTGAGE AMOUNT \$ _____ SIGNED _____

MORTGAGE RATE _____ % SOCIAL SEC. # _____

United Marine Fund

HAROLD S. ONGSTAD, Manager

2400 N. W. 64th

SEATTLE, WASHINGTON 98107

ENDORSEMENT # _____.

In consideration of premiums charged, it is hereby understood and agreed that;

(1) The _____ is the sole loss payee for all losses payable under this coverage.

(2) The assured(s) is without privilege of cancellation of this coverage without the prior consent of the _____.

(3) In the event of cancellation or modification of this coverage, the insurers will furnish _____ with twenty (20) days written notice of such cancellation or modification prior to the effective date thereof.

(4) The seaworthiness of the vessel insured by this coverage is admitted as between the mortgagee and the insurer and the interest of the mortgagee shall not be impaired or invalidated by any act or neglect of the mortgagor, owner, master, agent, or crew of the vessel insured by this coverage, or by any failure to comply with any warranty or condition over which the mortgagee has no control or over which the mortgagee has control but has not exercised such control.

This endorsement is attached to and forms part of the membership of the _____.

Signed at _____

Authorized Signature _____

Dated _____

United Marine Fund

HAROLD S. ONGSTAD, Manager

2400 N. W. 64th

SEATTLE, WASHINGTON 98107

INFORMATIONAL LETTER RE MEMBERSHIP IN THE UNITED MARINE FUND

PURPOSE AND COVERAGE: The purpose of the fund is to create and maintain a fund for the reimbursement of marine hull and machinery losses suffered by members. It is also to work for the careful and able operation of vessels. We offer the broadest coverage available and at reasonable rates with refunds to member as best possible.

MEMBERSHIP: To become a member of the fund you must submit an application with some references of people belonging to the fund to vouch for you. This application, then, is brought before the board of directors for approval. We can insure up to \$350,000 per vessel for hull and machinery. We take most every type of fishing vessel including seiners, halibut, trollers, draggers, and crab boats. Generally, we do not encourage boats under 30 or 35 feet in length or under \$20,000 in value.

MEANS OF OPERATION: The fund is managed by a manager and a board of directors. At the annual meeting, changes or policies are set and the board is elected by the members. All members have a vote.

RATES OF MEMBERSHIP: We charge a rate or premium of 5% of the amount carried in the fund. This is divided into quarterly payments payable at least by March 31st, June 30th, September 30th, and year end. In the last quarter, members will take lay-up credit for the whole year. That is any time their vessel was tied up over 15 days. With the lay-up off, the rate becomes some less than 5%, depending on the number of months tied up. Therefore, your actual rate would become:

With no lay-up at all	5.00%
With 2 months lay-up	4.58
With 4 months lay-up	4.16
With 6 months lay-up	3.75
with 8 months lay-up	3.33
with 10 months lay-up	2.91

This rate, after lay-up, is paid each year for four years. Each year a refund is set aside, depending on yours and the funds loss experience. In the fifth year you are still charged the 5% rate but your account is credited with the first year's refund. That means, then, that you are three years behind in your refunds and they come due in turn each following year. These refunds make up our reserves for bad years, if any-or for catastrophe. If you sell your boat, retire, etc., you will have three or four years refunds coming which are paid out by check.

REFUNDS: Over the more than fifty year experience of the fund, we have never failed to pay a refund. Some have been big and some have been small, but probably, on the average, have run about 70% for the whole 50 years or so. Lately, in the last ten years, they have been better with an average of about 85%. Our best have been 100% and lowest 40% or so.

STRENGTH: An important consideration when buying protection for your boat is the ability of the fund to pay. Lately, a few commercial insurance companies have gone broke, sometime in mid term for the insured and he has nothing for the money he

BYLAWS
OF
AMERICAN MARINE FUND

ARTICLE I

Name

The name of this organization shall be American Marine Fund.

ARTICLE II

Place of Business

The office and place of business of the Fund shall be in Seattle, Washington. All meetings of the members and of the Board of Directors shall be held in Seattle, Washington.

ARTICLE III

Purpose of Organization

The purpose of this organization is to create and maintain a fund for the reimbursement of marine losses suffered by members and to work for the elimination of careless and reckless operation of fishing vessels, to maintain staunch and seaworthy fishing vessels, and to give help to fellow members' vessels in distress, at a reasonable rate of compensation.

ARTICLE IV

Membership

1. Membership in the Fund shall be confined to owners of steel hull fishing vessels.

2. Continued membership is dependent upon the member being a fishing vessel owner with a record of careful and able operation of his vessel.

3. Any member wishing to enter more than one vessel with the Fund shall apply to the Board of Directors, which may at its discretion accept or refuse such entry.

4. A member whose membership is canceled for nonpayment of required contributions may be reinstated at the discretion of the Board of Directors upon payment of all delinquent contributions.

5. The widow or surviving children of a deceased member may retain his membership if the vessel is managed by a person approved by the Board of Directors.

6. All members shall have the same rights and privileges.

ARTICLE V

Membership Meetings

1. The annual meeting of members shall be held on the third Monday in January at 7:30 p.m. At each annual meeting the membership shall elect new directors in the place of those whose terms expire, in accordance with Article VI hereof. Their election shall be by ballot. Special meetings of the membership may be called by the majority of the directors or upon written demand by ten or more members served upon the manager, such demand to specify the particular business to be brought before such meeting.

2. Written notice of the annual meeting of members shall be mailed to each member in good standing by the Business Manager at least ten (10) days before the date of said meeting and similar notice shall be given of special meetings. The notice of special meeting shall state the business to be brought before such meeting. No business shall be brought before any special meeting if not stated in the notice thereof.

3. All members who have paid their contributions for the current quarter as provided in Article IX shall be entitled to express themselves at any meeting of the members, but only one vote may be cast for any one vessel, and only by members in person.

4. One-fifth of the total membership shall constitute a quorum at any annual or special meeting of the members.

ARTICLE VI

Administration

The affairs of this organization shall be administered by a board of seven (7) directors chosen in the following manner: At the time of organization three directors shall be chosen for three (3) years, two directors for two (2) years, and two directors for one (1) year. At each succeeding annual meeting vacancies shall be filled for three (3) year terms. Outgoing directors shall act as alternates for a term of one year.

ARTICLE VII

Board of Directors

1. The Board of Directors shall have the management of the organization and full control thereof as provided in these Bylaws and any amendments thereof.

2. All applications for membership shall be passed on by the Board. A quorum of the directors may approve or reject a particular application by a majority vote, and/or may freeze membership by not accepting any new applications. Upon the request of any director an application for membership may be decided by secret ballot.

3. The directors shall, from their own number, appoint a chairman who shall preside at all meetings of the Board and of the membership. They shall also appoint a vice-chairman to take the chairman's place in case of his absence or inability to act.

4. If a director becomes unable or unwilling to serve, the Board may appoint a new director to serve in his place until the next annual meeting.

5. The Board may meet from time to time as the directors themselves shall decide, and the chairman may call meetings of the Board at any time. Notice of such meetings shall be given in accordance with such rules as the Board itself adopts from time to time. Four (4) members of the Board shall constitute a quorum.

6. The Board shall have the authority to establish valuations and to survey any vessel entered in the Fund. The Board shall have the authority to limit the amount a member may enter in the Fund.

7. Upon written application by a member, the Board shall have authority to decide whether or not to cover a vessel operating south of Latitude 12° North down to Latitude 5° South. The Board shall also have authority to increase rates as it deems necessary on vessels authorized to operate in these waters.

8. The Board shall appoint a Business Manager, whose duties shall be as hereinafter provided. In case of the death, disability or resignation of the Manager the vacancy thus created shall be filled at once. The Manager need not be a member of the organization, nor shall the Board appoint an insurance agent as Manager.

ARTICLE VIII

Business Manager

1. The Business Manager shall furnish a Fidelity Bond in an amount of at least \$50,000.00 which shall be raised as the Fund increases, guaranteeing the faithful performance of all his duties.

2. The Manager shall be custodian of all funds belonging to the Fund. He shall deposit receipts in such depository or depositories as the Board of Directors shall designate. He shall disburse funds as approved by the Board.

3. The Manager shall keep an accurate record of all business transacted for this organization.

4. The Manager shall give the notices required for meetings of the Board of Directors and of the membership, and shall act as secretary at all such meetings.

5. The Manager shall be paid compensation in the amount of 5% of receipts of the organization.

ARTICLE IX

Rules for Conduct of Business

1. In all instances the Fund will record the agreed value of a vessel and also that part of the agreed value entered with the Fund. No entry with the Fund shall exceed \$100,000.00. That part of the agreed value of a vessel entered with the Fund shall be the basis upon which contributions are assessed and losses are prorated and reimbursed.

2. Losses of members shall be adjusted and reimbursed in accordance with the terms of the American Hulls Pacific [1938] form, but with the limitations otherwise stated in these Bylaws.

3. Members shall not be reimbursed for loss of power skiffs whether on board the member's vessel or otherwise.

4. The right to reimbursement under these Bylaws is subject to the following warranties, to the same effect as though they were incorporated in the American Hulls Pacific [1938] form:

(a) Territorial Limits. Vessels shall trade only from Latitude 12° North to Latitude 65° North, and east of Longitude 172° East.

(b) Stability Test. Vessels equipped with fish holding tanks must have aboard a current, approved stability letter or report from an approved naval architect.

(c) Bilge Alarm. All vessels shall be equipped with a bilge alarm system installed to warn of water entry above a safe level.

(d) Fire Alarm. All vessels shall be equipped with at least one fire alarm system.

(e) Survey. All vessels shall engage a professional surveyor every second year to survey the vessel and will provide the Fund with a copy of the survey. All of the surveyor's recommendations must be complied with.

5. Warranted free from particular average under \$10.00 per foot of the Vessel's registered length, but nevertheless, if the Vessel shall have been stranded, sunk on fire, or in collision with any other ship or vessel, the Fund shall pay damage occasioned thereby in accordance with Article IX, Section 8, of these Bylaws.

6. In case of accident, the member must notify the Manager or one of the directors promptly and before having repairs made to his own vessel. If another vessel is damaged, the member must notify the Manager or a director promptly so that the Fund can protect its interest.

7. In all cases of loss or damage involving a member's vessel, two of the directors, if available (or two members if no directors are available) may serve as surveyors to determine extent of damage and necessary repairs to be undertaken for the owner's account, and to prepare and approve specifications for repairs. In lieu of survey by directors or members, the Manager may engage a professional marine surveyor.

8. Any member claiming reimbursement for loss shall submit proof of loss, and the Board may require additional proof before taking action on the claim. The Board will notify the member of the action taken by the Board to adjust and approve or disapprove his claim. No member or other person interested in reimbursement shall be entitled to interest upon the amount which may be due from the Fund until 30 days after such notification.

9. Claims for losses shall be adjusted in accordance with the practice of marine underwriters at the port of Seattle at the date of loss. The Fund reserves the right to do its own surveying and adjusting.

10. No reimbursement shall be afforded if a vessel shall be sold, assigned, pledged, chartered or placed under new management, whether voluntary or otherwise, without prior notification to the Manager and written approval executed by him.

11. Contribution rates for members shall be five percent (5%) per year, with no allowance for layup time.

Each member who enters this organization before February 1, 1987 shall give the Fund a promissory note in the amount of \$10,000.00 or ten percent (10%) of that member's entry with the Fund, whichever is less. The note shall be payable to the order of American Marine Fund upon demand within two (2) years of the date of the note. The note shall be signed by the member and his spouse. The form of promissory note is attached hereto as Schedule A.

If the Fund receives payment of the promissory note given by a member as above provided, said payment shall thereupon become an indebtedness of the Fund in favor of the member and shall bear interest thereafter at the prime rate then charged by Seattle-First National Bank. Regardless of whether the Fund demands payment of the promissory note given by a member as above provided, the Fund shall reduce by \$500.00 the member's contribution for each of the first two (2) full years of membership following the expiration of the term of the note. The Fund may transfer or negotiate promissory notes made by members in such manner as is approved by the Board. The provisions of these Bylaws shall not be binding upon any holder of the said notes other than the Fund.

If a vessel is sold by a member, the Fund shall return that member's promissory note unless it has been negotiated. If the note has been negotiated, and if the purchaser of the vessel is approved by the Board for membership, the Board shall waive the requirement that the purchaser give a promissory note.

12. If a vessel is sold by a member, the prorated unexpired membership dues shall be refunded, or may be transferred to the new owner upon approval by the Board.

13. Membership contributions shall be paid quarterly in advance no later than the first days of January, April, July and October. Any member more than ninety (90) days delinquent in payment of his contribution shall be automatically canceled as a member.

14. The expiration date of all memberships shall be December 31 of each year. The first year the members to pay dues in full, the unexpired balance on December 31 to be credited to their new membership for the ensuing calendar year.

15. If a vessel is covered for a portion of a year and has a claim during that time, the member is liable for a full year's dues, and any balance due the Fund on account thereof shall be deducted from the amount due under the claim if sufficient to cover, and if not, shall be paid in full by the member.

16. Each member shall promptly notify the Manager or a director of any hull and machinery insurance which he carries on his vessel beyond the protection afforded under these rules.

17. Should the United States of America or any of its instrumentalities be deemed a member of this organization because of an interest as mortgagee, mortgage guarantor, or otherwise, in any vessel entered in this organization and be afforded reimbursement as a payee under these Bylaws, this organization shall have full rights of subrogation against the United States of America to the extent of any loss paid for which any member other than the United States of America could bring suit against the United States of America under the Suits in Admiralty Act, Public Vessels Act, Federal Tort Claims Act, or Tucker Act to recover for such loss, and notwithstanding the fact that the United States of America may be deemed to be a member of this organization and as payee or reimbursement of a loss, such loss shall be considered to have been paid to and sustained by any member other than the United States of America in the first instance.

ARTICLE X

Overhead Expenses

The directors are not allowed to exceed five percent (5%) on contributions to the Fund to defray necessary expense.

ARTICLE XI

Surplus

All surplus from contributions shall be credited to each individual member at the end of each year in proportion to his contribution to the Fund for the year. If any member has received any payment from the Fund during a year on account of losses, the amount to be credited to him from the surplus under the foregoing provisions shall be reduced by the amount or amounts so paid to him for losses, but no payments for losses for preceding years shall be so deducted. Each year's surplus shall at all times, until withdrawn as hereinafter provided, be available as a part of the Fund for the purpose of paying losses sustained by members, without regard to such credits; provided, however, that such surplus shall not be available for payment of future losses or any other disbursements in any year until the current year's contributions and income have been exhausted, and if in any year there is no current surplus, and further funds are required to pay claims, such further payments shall be charged against the yearly surpluses from the preceding four years in the inverse order of their establishment. Withdrawals from a year's surplus may be made after the fifth year of its establishment to such an extent as two-thirds of the membership in good standing shall decide.

The net earnings from investment of the members' current contributions and surplus shall be used to pay claims, expenses and taxes and the excess of such net earnings, if any, shall be set aside for the payment of future claims, expenses and taxes and shall not be credited or paid to the members. Upon a dissolution of the Fund, any net earnings remaining after the payment of all outstanding claims, expenses and taxes shall be distributed to such charitable, religious, educational, scientific and literary organizations (contributions to which are deductible for federal and State of Washington income tax purposes) and in such amounts as the directors shall select.

ARTICLE XII

Expulsion

1. The Board of Directors shall have full and complete authority to expel any member and thereby cancel all rights afforded by these Bylaws when in its sole discretion any member is detrimental to or does not abide by the purposes of the organization.

2. Expulsion of a member and cancellation of his membership shall be made in the following manner: The Board of Directors shall prepare specifications of any charge made against the member. A copy of such specifications together with a notice of hearing thereon before the Board of Directors shall be mailed by registered mail, return receipt requested, postage prepaid, to the member in question at his last address appearing on the books of the organization. Said notice shall be mailed at least ten (10) days before the hearing. It shall request the member to be present at the hearing. The member in question shall be given full opportunity to respond to the charge, and thereafter the Board of Directors shall vote by secret ballot upon expulsion. Expulsion shall require the votes of at least five (5) directors. If expulsion is approved by the Board of Directors the same shall become effective ten (10) days from the date of the vote thereon.

3. Any money due an expelled member shall be paid in accordance with the provisions of Article XI of these Bylaws.

ARTICLE XIV

Losses

No member, director, agent, servant, or attorney of this organization shall be liable for any loss suffered by any member, and no assessment shall be levied on any of them under any circumstances for the purpose of paying losses or for any other purpose, either directly or indirectly. If the fund created does not suffice to

reimburse for the aggregate losses during a year, the deficiency shall be prorated among all proven claims for the year during which the deficiency occurs after application of the surplus provided in Article XI. No insurance business of any kind must be done as such business is understood under the statutes of the State of Washington.

ARTICLE XV

Amendments

These Bylaws may be amended at the annual meeting of the members, or at any special meeting called for that purpose, by a majority of a quorum of the whole membership.

Schedule A

PROMISSORY NOTE

Dated at Seattle, Washington, _____, 198____. \$10,000.00

FOR VALUE RECEIVED, the undersigned promises to pay to the order of American Marine Fund upon demand made on or before two years from the date of this note, the sum of TEN THOUSAND DOLLARS (\$10,000.00), in lawful money of the United States. Payment to be made at such place as the holder may direct in writing.

If payment is not made promptly upon demand as above provided, this note shall bear interest at the rate of twelve percent (12%) per annum from the date of demand until paid, and if this note shall be placed in the hands of an attorney for collection or if suit shall be brought to collect any of the principal or interest of this note, the undersigned promises to pay any reasonable attorneys' fees and agrees that venue of suit may be laid in King County, State of Washington. The maker of this note executes the same as a principal and not as a surety and waives presentment, demand, protest, notice of protest, notice of dishonor, and notice of nonpayment. If this note is signed by more than one person the obligations of the signers shall be joint and several.

PACIFIC MARINE FUND
1977 to 1984

YEAR	PREMIUM	INTEREST	EXPENSES	INC. TAX	CLAIMS	DIVIDEND	YEAR PAID FEBRUARY	% RETURN TO MEMBERS W/O CLAIMS
1977	71,000	1,762	5,061	0	13,020	27,986	1981	48
1978	123,750	5,755	9,315	282	119,907	0		0
1979	125,000	9,244	6,644	1,017	37,289	74,648	1983	85
1980	111,340	18,778	6,896	1,597	0	111,340	1984	100
1981	134,510	26,980	10,052	3,036	10,071	122,935	1985	99
1982	136,375	49,632	9,648	4,331	5,475	130,899	1986	100
1983	154,028	52,793	13,687	8,223	5,000	149,028	1987	100
1984	311,337	64,478	24,445	7,993	15,834	295,503	1988	100
							AVERAGE	79

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ROBIN GABBERT WILCOX
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**ADMITTED IN WASHINGTON & ALASKA
OTHERS NOT ADMITTED IN WASHINGTON

November 19, 1985

A. W. Hall
Renewable & Natural Resources Advisor
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Bill:

It was a pleasure to meet you in Anchorage on November 14th. The "twilight zone" can reasonably effectively be removed from the Alaska Workers' Compensation Act by the addition of the following language.

No compensation under this Act shall be payable in respect of the death or disability of a master or member of a crew of any vessel.

This language is taken from the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. Section 903(a)(1). If accompanied by appropriate legislative history concerning the intent of this language, it should clearly remove coverage for those engaged in the fishing industry who retain numerous federal maritime rights and whose remedies are only extended under the Alaska Act during such times as their vessels are tied up to wharves.

I would be delighted to assist in this project if any additional help is necessary.

Very truly yours,

FAULKNER, BANFIELD,
DOOGAN & HOLMES

By: 
Michael A. Barcott

MAB:kl
05601