

**H B**


**355**

CSHB 355 (L&C): "An Act relating to imposition of a uniform insurance premium tax; and providing for an effective date.

While this department is neutral on the subject of tax level, we do support this proposed legislation due to its effect on the Division of Insurance. The Act substantially makes the rate of insurance premium tax uniform at 2.7% and provides for a common method of computation. This simplifies the application and calculation of the tax as well as the collection of the tax.

The Division of Insurance now has a number of sources with which to confirm taxes based on gross premium income. It does not have a practical means to determine or confirm taxes based on gross underwriting profit, the method currently used on some wet marine and transportation insurance placements. Except for hospital and medical service corporations, tax would be uniformly applied to gross premium income.

Presently, there are eight different tax rates in the insurance code involving at least three different methods of calculation with resultant variety of the forms utilized to aid in the proper calculation of the appropriate tax. This legislation would allow the Division of Insurance to operate more efficiently in its tax collection role by consolidating the rate and method of taxation.

  
\_\_\_\_\_  
Larry Mercurieff, Commissioner  
Date: 24/90

LW/dgl6187D  
12490a

### FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Econ. Dev.  
 Title: An Act relating to insurance premium taxes; BRU: Insurance  
and providing for an effective date  
 Sponsor: Labor & Commerce Committee Components: Operations  
 Requestor: House Labor & Commerce

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

| OPERATING              | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES      |       |       |       |       |       |       |
| TRAVEL                 |       |       |       |       |       |       |
| CONTRACTUAL            |       |       |       |       |       |       |
| SUPPLIES               |       |       |       |       |       |       |
| EQUIPMENT              |       |       |       |       |       |       |
| LAND & STRUCTURES      |       |       |       |       |       |       |
| GRANTS, CLAIMS         |       |       |       |       |       |       |
| MISCELLANEOUS          |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b> | 0     | 0     | 0     | 0     | 0     | 0     |

|                |   |   |   |   |   |   |
|----------------|---|---|---|---|---|---|
| <b>CAPITAL</b> | 0 | 0 | 0 | 0 | 0 | 0 |
|----------------|---|---|---|---|---|---|

|                |       |       |       |       |       |       |
|----------------|-------|-------|-------|-------|-------|-------|
| <b>REVENUE</b> | 159.2 | 167.1 | 175.4 | 184.2 | 193.4 | 203.0 |
|----------------|-------|-------|-------|-------|-------|-------|

**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

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

**ANALYSIS :** (Attach a separate page if necessary) No fiscal impact in FY90.

Prepared by: Don Koch, Chief of Market Surveillance Phone: 465-2577  
 Division: Insurance Date: 1-19-90  
 Approved by Commissioner: Larry Merculief Date: 1/1/90  
 Agency: Commerce and Economic Development

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

# Alaska State Legislature

## House of Representatives



### Labor and Commerce Committee

May 1, 1990

M E M O R A N D U M

To: Senator Dick Eliason, Chair  
Senate Labor and Commerce Committee

From: Representative Dave Donley, Chair  
House Labor and Commerce Committee

Re: HB 355 - Uniform premium tax

HB 355 was sponsored by the House Labor and Commerce Committee to create a more uniform tax structure and to aid the Division of Insurance in the collection and regulation of the premium tax in the state.

HB 355 makes wet marine, transportation, independently procured and title insurance consistent with the same 2.7 percent level of tax that other insurers pay. Because of their unique status, hospital and medical service corporations (all are non-profit) are exempt from the 2.7 percent tax and will continue to pay their current premium tax rate and MICA is exempted from the tax altogether for reasons explained in the enclosed information.

HB 355 was amended on the floor of the House to exempt title insurance from the uniform tax, making it the sole exception for likely situated insurers. The House Labor and Commerce Committee opposed that amendment in the House and remains in opposition to this exception. A memorandum and backup information from the Division of Insurance regarding title insurance is included in the referral file for your information.

House Floor Statement by  
Representative Dave Donley, Chair  
Thursday, April 5, 1990

HB 355 - Uniform Premium Tax

- \* Sponsored by Labor and Commerce
- \* Establish a uniform premium tax of 2.7 percent for insuring property or risks located in Alaska.
- \* Premium tax one of the largest sources of revenues to the state - between \$20 and \$28 million a year.
- \* Complexity of current statutes and differences between rates paid by various insurers makes collection and regulation needlessly difficult for Division of Insurance.
- \* HB 355 will make it easier to collect and regulate premium tax
- \* Property/casualty and life/disability insurers already pay 2.7 percent.
- \* Makes wet marine, transportation, independently procured and title insurance consistent with the rate other insurers pay.
- \* Makes MICA exempt from premium tax - will reduce malpractice insurance rates for MICA-insured physicians and strengthen MICA's tax status question with the IRS.
- \* Hospital/medical service corporations (all are non-profit) are exempt from the uniform tax under HB 355 (L&C) and will continue to pay their current premium tax rate
- \* HB 355 will generate approximately \$160,000 per year in additional revenues which is to be separately accounted for and may be appropriated by the legislature to the Alaska medical malpractice matching fund to offset the cost of malpractice insurance for physicians who deliver babies or provide prenatal care.

# Insurance Premium Tax Rates by State

| State | P&C<br>Tax |    | Wet Marine<br>Tax |       | Fire<br>Marshall | Other<br>Fire | Total<br>Tax |
|-------|------------|----|-------------------|-------|------------------|---------------|--------------|
| AL    | 4.00       | GP | 4.00              | GP    | None             | None          | 4.00 GP      |
| AK    | 2.70       | GP | 0.75              | Pr    | None             | None          | 2.70 GP      |
| AZ    | 1.70       | GP | 1.70              | GP    | 0.20 †           | None          | 1.90 GP      |
| AR    | 2.50       | GP | 0.75              | Pr    | None             | None          | 2.50 GP      |
| CA    | 2.35       | GP | 5.00              | Pr(3) | None             | None          | 2.35 GP      |
| CO    | 2.25       | GP | 2.25              | GP    | None             | None          | 2.25 GP      |
| CT    | 2.00       | GP | 5.00              | Pr(3) | None             | None          | 2.00 GP      |
| DE    | 1.75       | GP | 5.00              | Pr(3) | None             | None          | 1.75 GP      |
| DC    | 2.00       | GP | 2.00              | GP    | None             | None          | 2.00 GP      |
| FL    | 2.00       | GP | 0.75              | Pr    | 0.63 †           | None          | 2.63 GP      |
| GA    | 2.25       | GP | 2.25              | GP    | None             | 2.50 †        | 4.75 GP      |
| HI    | 4.28       | GP | 0.88              | Pr    | None             | None          | 4.28 GP      |
| ID    | 3.00       | GP | 3.00              | GP    | None             | None          | 3.00 GP      |
| IL    | 2.00       | GP | 2.00              | GP    | 1.00 †           | 2.00 †        | 5.00 GP      |
| IN    | 2.00       | GP | 2.00              | GP    | 0.50 incl        | None          | 2.00 GP      |
| IA    | 2.00       | GP | 6.50              | Pr(3) | None             | None          | 2.00 GP      |
| KS    | 2.00       | GP | 2.00              | GP    | 1.25 †           | 2.00 †        | 5.25 GP      |
| KY    | 2.00       | GP | 2.00              | GP    | 0.75 †           | None          | 2.75 GP      |
| LA    | 1.85       | GP | 1.85              | GP    | 1.25 †           | 2.25 †        | 5.35 GP      |
| ME    | 2.00       | GP | 2.00              | GP    | 0.75 †           | None          | 2.75 GP      |
| MD    | 2.00       | GP | 2.00              | GP    | None             | None          | 2.00 GP      |
| MA    | 2.28       | GP | 5.70              | Pr(3) | None             | None          | 2.28 GP      |
| MI    | 2.35       | GP | 2.35              | GP    | None             | None          | 2.35 GP      |
| MN    | 2.00       | GP | 5.00              | Pr(3) | 2.00 †           | 2.00 †        | 6.00 GP      |
| MS    | 3.00       | GP | 3.00              | GP    | 0.50 †           | None          | 3.50 GP      |
| MO    | 2.00       | GP | 2.00              | GP    | None             | None          | 2.00 GP      |
| MT    | 2.75       | GP | 2.75              | GP    | 0.75 †           | 1.25 †        | 4.75 GP      |
| NE    | 1.00       | GP | 1.00              | GP    | 0.75 †           | None          | 1.75 GP      |
| NV    | 3.00       | GP | 3.00              | GP    | None             | None          | 3.00 GP      |
| NH    | 2.00       | GP | 5.00              | Pr    | None             | None          | 2.00 GP      |
| NJ    | 2.00       | GP | 5.00              | Pr(3) | None             | None          | 2.00 GP      |
| NM    | 3.00       | GP | 3.00              | GP    | None             | None          | 3.00 GP      |
| NY    | 2.60       | GP | 2.60              | GP    | 1.25 †           | None          | 3.85 GP      |
| NC    | 2.50       | GP | 2.50              | GP    | 1.00 †           | 0.50 †        | 4.00 GP      |
| ND    | 2.50       | GP | 2.50              | GP    | None             | None          | 2.50 GP      |
| OH    | 2.50       | GP | 2.50              | GP    | 0.75 †           | None          | 3.25 GP      |
| OK    | 4.00       | GP | 4.00              | GP    | 0.31 †           | None          | 4.31 GP      |
| OR    | 2.25       | GP | 5.00              | Pr(3) | 1.00 †           | None          | 3.25 GP      |
| PA    | 2.00       | GP | 5.00              | Pr    | None             | None          | 2.00 GP      |
| RI    | 2.00       | GP | 5.00              | Pr(3) | None             | None          | 2.00 GP      |
| SC    | 2.00       | GP | 2.00              | GP    | None             | 1.10 †        | 3.10 GP      |
| SD    | 2.50       | GP | 2.50              | GP    | 0.50 †           | None          | 3.00 GP      |
| TN    | 2.50       | GP | 2.50              | GP    | 0.75 †           | None          | 3.25 GP      |
| TX    | 3.50       | GP | 3.50              | GP    | 1.25 †           | None          | 4.75 GP      |
| UT    | 2.25       | GP | 5.00              | Pr    | None             | None          | 2.25 GP      |
| VT    | 2.00       | GP | 2.00              | GP    | None             | None          | 2.00 GP      |
| VA    | 2.75       | GP | 2.75              | GP    | None             | None          | 2.75 GP      |
| WA    | 2.00       | GP | 0.95              | Pr    | None             | None          | 2.00 GP      |
| WV    | 4.00       | GP | 4.00              | GP    | 0.50 †           | None          | 4.50 GP      |
| WI    | 2.38       | GP | 0.50              | GP    | None             | 2.00 †        | 4.38 GP      |
| WY    | 2.50       | GP | 0.75              | Pr    | None             | None          | 2.50 GP      |

# Tax Rates by State

| State | P&C Tax | Wet Marine Tax | Fire Marshall | Notes                       |
|-------|---------|----------------|---------------|-----------------------------|
| AL    | 4.00    | 4.00 GP        | None          |                             |
| AK    | 2.70    | 0.75 Pr        | None          |                             |
| AZ    | 1.70    | 1.70 GP        | 0.20 †        |                             |
| AR    | 2.50    | 0.75 Pr        | None          |                             |
| CA    | 2.35    | 5.00 Pr(3)     | None          |                             |
| CO    | 2.25    | 2.25 GP        | None          |                             |
| CT    | 2.00    | 5.00 Pr(3)     |               | ???????                     |
| DE    | 1.75    | 5.00 Pr(3)     | None          |                             |
| DC    | 2.00    | 2.00 GP        | None          |                             |
| FL    | 2.00    | 0.75 Pr        | 0.63 †        |                             |
| GA    | 2.25    | 2.25 GP        | None          | † max of 2.50 by county     |
| HI    | 4.28    | 0.88 Pr        | None          |                             |
| ID    | 3.00    | 3.00 GP        | None          |                             |
| IL    | 2.00    | 2.00 GP        | 1.00 †        | † 2.00 for Fire Dept        |
| IN    | 2.00    | 2.00 GP        | 0.50 incl     |                             |
| IA    | 2.00    | 6.50 Pr(3)     | None          |                             |
| KS    | 2.00    | 2.00 GP        | 1.25 †        | † 2.00 Firefighters Relief  |
| KY    | 2.00    | 2.00 GP        | 0.75 †        |                             |
| LA    | 1.85    | 1.85 GP        | 1.25 †        | † 2.25 Fire Dept & Traininr |
| ME    | 2.00    | 2.00 GP        | 0.75 †        |                             |
| MD    | 2.00    | 2.00 GP        | None          |                             |
| MA    | 2.28    | 5.70 Pr(3)     | None          |                             |
| MI    | 2.35    | 2.35 GP        | None          |                             |
| MN    | 2.00    | 5.00 Pr(3)     | 2.00 †        | † 2.00 Firemens Relief Fun  |
| MS    | 3.00    | 3.00 GP        | 0.50 †        |                             |
| MO    | 2.00    | 2.00 GP        | None          |                             |
| MT    | 2.75    | 2.75 GP        | 0.75 †        | † 1.25 Firemens Pension     |
| NE    | 1.00    | 1.00 GP        | 0.75 †        |                             |
| NV    | 3.00    | 3.00 GP        | None          |                             |
| NH    | 2.00    | 5.00 Pr        | None          |                             |
| NJ    | 2.00    | 5.00 Pr(3)     | None          |                             |
| NM    | 3.00    | 3.00 GP        | None          |                             |
| NY    | 2.60    | 2.60 GP        | 1.25 †        |                             |
| NC    | 2.50    | 2.50 GP        | 1.00 †        | † 0.50 Firemens Relief Func |
| ND    | 2.50    | 2.50 GP        | None          |                             |
| OH    | 2.50    | 2.50 GP        | 0.75 †        |                             |
| OK    | 4.00    | 4.00 GP        | 0.31 †        |                             |
| OR    | 2.25    | 5.00 Pr(3)     | 1.00 †        |                             |
| PA    | 2.00    | 5.00 Pr        | None          |                             |
| RI    | 2.00    | 5.00 Pr(3)     | None          |                             |
| SC    | 2.00    | 2.00 GP        | None          | † 1.10 Fire Dept & Inspect: |
| SD    | 2.50    | 2.50 GP        | 0.50 †        |                             |
| TN    | 2.50    | 2.50 GP        | 0.75 †        |                             |
| TX    | 3.50    | 3.50 GP        | 1.25 †        |                             |
| UT    | 2.25    | 5.00 Pr        | None          |                             |
| VT    | 2.00    | 2.00 GP        | None          |                             |
| VA    | 2.75    | 2.75 GP        | None          |                             |
| WA    | 2.00    | 0.95 Pr        | None          |                             |
| WV    | 4.00    | 4.00 GP        | 0.50 †        |                             |
| WI    | 2.38    | 0.50 GP        | None          | † 2.00 Fire Dept Dues       |
| WY    | 2.50    | 0.75 Pr        | None          |                             |

Preferential Tax Rates for Wet Marine

HBZ 30

| State | P&C Tax | Wet Marine Tax |
|-------|---------|----------------|
| AK    | 2.70 GP | 0.75 Pr        |
| AR    | 2.50 GP | 0.75 Pr        |
| FL    | 2.00 GP | 0.75 Pr        |
| WY    | 2.50 GP | 0.75 Pr        |
| HI    | 4.28 GP | 0.88 Pr        |
| WA    | 2.00 GP | 0.95 Pr        |
| NH    | 2.00 GP | 5.00 Pr        |
| PA    | 2.00 GP | 5.00 Pr        |
| UT    | 2.25 GP | 5.00 Pr        |
| CA    | 2.35 GP | 5.00 Pr(3)     |
| CT    | 2.00 GP | 5.00 Pr(3)     |
| DE    | 1.75 GP | 5.00 Pr(3)     |
| MN    | 2.00 GP | 5.00 Pr(3)     |
| NJ    | 2.00 GP | 5.00 Pr(3)     |
| OR    | 2.25 GP | 5.00 Pr(3)     |
| RI    | 2.00 GP | 5.00 Pr(3)     |
| MA    | 2.28 GP | 5.70 Pr(3)     |
| IA    | 2.00 GP | 6.50 Pr(3)     |
| WI    | 2.38 GP | 0.50 GP        |

Notes:

GP = Gross Premium  
 Pr = Profit  
 Pr(3) = Average 3 Year Profit

19 States have a preferential tax treatment for Wet Marine insurance

Added Premium Tax for Fire Marshall & Fire Related

| State | P&C Tax | Fire Marshall Tax | Additional Fire Related Tax   |
|-------|---------|-------------------|-------------------------------|
| AK    | 2.70    | None              |                               |
| AZ    | 1.70    | 0.20 †            |                               |
| FL    | 2.00    | 0.63 †            |                               |
| GA    | 2.25    | None              | † max of 2.50 by county       |
| IL    | 2.00    | 1.00 †            | † 2.00 for Fire Department    |
| IN    | 2.00    | 0.50 incl         |                               |
| KS    | 2.00    | 1.25 †            | † 2.00 Firefighters Relief    |
| KY    | 2.00    | 0.75 †            |                               |
| LA    | 1.85    | 1.25 †            | † 2.25 Fire Dept & Training   |
| ME    | 2.00    | 0.75 †            |                               |
| MN    | 2.00    | 2.00 †            | † 2.00 Firemens Relief Fund   |
| MS    | 3.00    | 0.50 †            |                               |
| MT    | 2.75    | 0.75 †            | † 1.25 Firemens Fension       |
| NE    | 1.00    | 0.75 †            |                               |
| NY    | 2.60    | 1.25 †            |                               |
| NC    | 2.50    | 1.00 †            | † 0.50 Firemens Relief Fund   |
| OH    | 2.50    | 0.75 †            |                               |
| OK    | 4.00    | 0.31 †            |                               |
| OR    | 2.25    | 1.00 †            |                               |
| SC    | 2.00    | None              | † 1.10 Fire Dept & Inspection |
| SD    | 2.50    | 0.50 †            |                               |
| TN    | 2.50    | 0.75 †            |                               |
| TX    | 3.50    | 1.25 †            |                               |
| WV    | 4.00    | 0.50 †            |                               |
| WI    | 2.38    | None              | † 2.00 Fire Dept Cues         |

Notes:

All tax rates above apply to gross premium

20 states have an added insurance premium tax for the Fire Marshall's office.

1 state has an amount in the insurance premium tax allocated for the Fire Marshall's office.

9 states have an added insurance premium tax for a fire related purpose.

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



November 23, 1989

## M E M O R A N D U M

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair  
House Labor and Commerce Committee

Re: HB 355 - Uniform Premium Tax

HB 355 establishes a uniform premium tax of 2.7 percent for insuring property or risks located in Alaska.

The premium tax is one of the largest sources of revenues to the state, generating between twenty and twenty-eight million dollars a year. The complexity of the current statute and the differences between the rates paid by various insurers makes collection and regulation of the premium tax needlessly difficult for the Division of Insurance. HB 355 will make it easier for the Division to collect the premium tax and to regulate the industry.

Property/casualty and life/disability insurers already pay a 2.7 percent premium tax. A uniform premium tax will generate an estimated \$1,728,416.00 additional general fund dollars per year by making the tax rate for hospital and medical service corporations, wet marine and transportation insurance, independently procured insurance and title insurance companies consistent with the rate other insurers pay.

There is a proposed committee substitute in your file that incorporates amendments requested by the Division of Insurance (see attached analysis and fiscal note). Jim Jordan, Acting Director of the Division of Insurance will be present to testify and answer questions at our November 28 hearing.

dd/gbi89  
b/hb355-1

HB 355



**Alaska National**  
INSURANCE COMPANY

*A policy of service and protection*

January 19, 1990

The Honorable Dave Donley  
Chairman, House Labor and  
Commerce Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Mr. Donley:

We have received an Insurance Issues report on a House Labor and Commerce Committee work session held on November 28, 1989, to consider H.B. 355. This is the bill that would impose a uniform insurance premium tax of 2.7 percent.

Quoting from that report:

"Before the work session, Acting Insurance Director Jim Jordan advised Rep. Dave Donley, the committee chairman, that the Division had a neutral position on the bill and offered several technical amendments. A draft substitute was prepared for the work session, incorporating Jordan's suggested changes, but he said he still remained neutral on the legislation because he was concerned about the situation involving Blue Cross of Washington and Alaska. Jordan said that the premium tax is an expense that is passed through directly to the consumer. He suggested that with the high cost of health insurance, the committee might consider exempting medical services corporations. Jordan estimated the increased premium tax in this area would add \$1.5 million to health insurance costs in Alaska. The committee agreed to exempt the medical services corporations and MICA."

We believe that exempting medical services corporations and MICA from the bill raises some equal protection constitutional issues. We agree with Director Jordan "that the premium tax is an expense that is passed through directly to the consumer." We then ask:

Why should a consumer who receives health care insurance from a medical service corporation not have to pay this expense whereas his neighbor who buys his medical insurance from another insurer does?

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JAN 22 1990

The Honorable Dave Donley  
January 19, 1990  
Page 2

Why should a physician (or, ultimately, the patients of that physician) who buys medical malpractice insurance from MICA not have to pay this expense whereas a competing physician (or, his patient) who buys insurance from another insurer does?

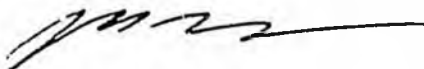
Why should policyholders of insurers who provide medical insurance through the workers' compensation, general and auto liability insurance system have to pay this expense whereas the proposed exempted do not?

If the Legislature wants to help out the consumer with premium tax expense, it seems to us that the proper way to do that is to reduce the rate (California's is 2.35%) but charge everyone equally.

There is one other item. We do not have a current draft of H.B. 355. The one we have from last year would continue taxing wet marine insurers on their gross underwriting profit, normally a small percentage of direct premium income. We believe that the tax on marine insurers should be applied to direct premium income to meet the test we advocate above. (We are putting our money where our mouth is on this issue since we are beginning to underwrite marine insurance this year).

Your comments would be appreciated.

Sincerely,



James E. Pfeifer  
President

JEP:lw

cc: Senator Tim Kelly  
Acting Director Jim Jordan

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

7th FLOOR FRONTIER BLDG.  
3801 C STREET, SUITE 740  
ANCHORAGE, ALASKA 99503-5934  
PHONE: (907) 582-3828

### DIVISION OF INSURANCE

January 2, 1990

Honorable Dave Donley  
House Labor and Commerce Committee  
Alaska State Legislature  
P. O. Box Y  
Juneau, AK 99811

Dear Representative Donley:

RE: Work Draft for CS HB 355 (Uniform Premium Tax)

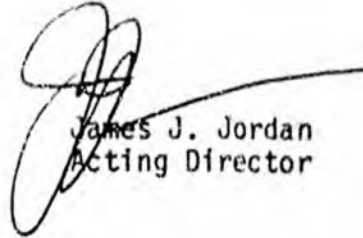
You requested that I provide you with the fiscal impact of the Work Draft for CS HB 355. The analysis is as follows:

|  | <u>HB 355</u> | <u>Work Draft<br/>CS HB 355</u> |
|--|---------------|---------------------------------|
| Section 1 Hospital and Medical Service Corporations                        | \$1,351,911   | \$ -0-                          |
| Section 2 Wet Marine and Transportation Insurance                          | 134,724       | 134,724                         |
| Section 4 Independently Procured Insurance                                 | [3,000]       | [3,000]                         |
| Section 6 Title Insurance Companies<br>(Section 7 in Work Draft CS HB 355) | 148,224       | 148,224                         |
| Section 7 MICA<br>(Section 8 in Work Draft CS HB 355)                      | 96,557        | [120,697]                       |
|  | <hr/>         | <hr/>                           |
| NEW REVENUE  | \$1,728,416   | \$159,251                       |

(NOTE: This includes the change relating to Hospital or Medical Service Corporation directed in your memorandum to Mike Ford dated December 11, 1989.

Let me know if you have any questions.

Sincerely,



James J. Jordan  
Acting Director

CC: Linda Wild,  
Special Assistant  
Dept. of Commerce &  
Economic Development

JJ/sh  
2716



AMERICAN INSURANCE ASSOCIATION  
WESTERN REGIONAL OFFICE

The Renaissance Tower  
801 K Street, Suite 912  
Sacramento, California 95814  
(916) 442 7017  
(916) 442 8178 FAX

May 2, 1990

The Honorable Senator Richard L. Eliason  
Chairman, Senate Labor and Commerce Committee  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Alaska 99811

Dear Senator Eliason:

It is our understanding that your committee is considering the Committee Substitute for HB 355 which would make Ocean Marine Insurance subject to a gross premium tax of 2.7 percent. Currently, this line of insurance is taxed at a rate of .75 percent on the gross underwriting profit.

With its national headquarters in Washington, D.C., the American Insurance Association (AIA) represents 226 property and casualty insurers nationwide. Our member companies write property and casualty coverage in every jurisdiction in the nation. While the amount of Ocean Marine Insurance our companies write in Alaska represents a small percentage of that particular market, we are concerned about the impact of this legislation on Alaska-based insurers and their clients. We ask the Committee consider these concerns as it addresses this legislation.

The current method of taxation of Ocean Marine by Alaska is very common nationwide. Of 23 coastal states which may, like Alaska, be considered maritime states, 12 tax Ocean Marine Insurance on the basis of some version of underwriting profits. One, New York, essentially does not tax Ocean Marine Insurance at all. While the rate of taxation may vary from state to state, the underlying premise remains the same - if the line of insurance is not profitable, no tax is assessed.

It is our understanding that the current methodology results from an informal arrangement among many of the maritime states in the early 1920's to address the historical problem of a premium tax system that would tax Ocean Marine Insurance on the basis of the location of the risk and on gross premiums.

It was found that if Ocean Marine was taxed based on the location of risk, many states would be able to tax Ocean Marine Premiums based on cargo passing through those states to its ultimate destination. The net effect was that several states could each levy a separate tax on Ocean Marine

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Senator Richard L. Eliason  
Page Two  
May 2, 1990

premiums. The relatively low tax rate was instituted for the purposes of discouraging exporters and importers alike from avoiding the tax altogether by placing their business with companies operating outside the U.S. To such operators, it is just as easy to take out insurance at the point of shipment as at the point of destination or vice-versa. Thus the shipper will buy insurance at the place offering the lowest rates.

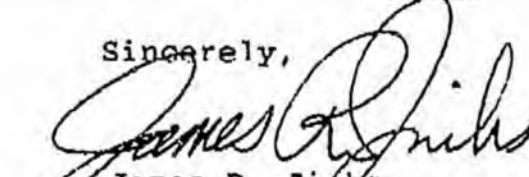
It is our impression that Ocean Marine coverage for most of the marine traffic to and from Alaska is written outside of the state. Adoption of the proposed amendments could open the door to multi-state taxation and the administrative burden of tracing a given risk for allocation purposes. This is an extremely bad precedent and could result in retaliatory legislation by other maritime states and nations.

When this bill was first proposed in the 1989 session, AIA expressed opposition to the measure to the extent that it represents a tax increase. In 1989, the Insurance Division estimated the measure would result in an increase of \$250,000 in tax revenues. This represents a tax increase and an increase in the cost of doing business. AIA and its member companies are opposed to measures which result in increased taxes or increased premiums, especially when the potential retaliatory consequences of such an increase have yet to be fully assessed.

Based on these considerations, we recommend retention of the current method of taxation of Ocean Marine Insurance. We also recommend the Committee thoroughly consider the potential adverse impact of the proposed amendments on Alaska based businesses before making a final recommendation to the Senate.

On behalf of the American Insurance Association, I wish to express appreciation for the opportunity to present our views on the proposed amendments to this committee.

Sincerely,



James R. Jinks  
Assistant Counsel

# MEMORANDUM

State of Alaska

TO: Dave Walsh  
Director  
Division of Insurance

DATE: April 5, 1990

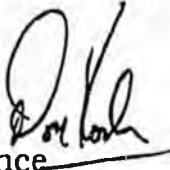
FILE NO.: TAB 8

THRU:

TELEPHONE NO.: (907) 465-2577

SUBJECT: Title Insurance

FROM: Don Koch  
Chief of Market Surveillance  
Division of Insurance  
Department of Commerce and  
and Economic Development



## TITLE INSURANCE LAW.

Title insurance is regulated by the Division of Insurance under AS 21.66.010 et seq. Two major changes have been made to that law since its adoption in 1966. In 1974, changes were made that substantially tracked a model law adopted by the American Land Title Association (ALTA). ALTA is a national trade association for title insurers involved in research and lobbying. In 1982, changes were made which permit the creation of a title insurance rating organization. Unfortunately, at about the same time there were court and FTC decisions made that effectively made the substance of the 1982 adoption unworkable.

Foremost among the regulatory concerns of the Division of Insurance is the continued solvency of all insurers, including title insurers. If an insurer undertakes to provide a coverage or coverages that has a substantial potential for jeopardizing the solvency of that insurer and thus the ability of that insurer to meet its contractual obligations, then the Division of Insurance must intervene.

## TITLE INSURANCE - WHAT IT IS

Title insurance is not a contract that is renewed annually. It is a one time transaction relating to the condition of title on a particular property as of a particular point in time, with coverage that may extend for days or for years. The title insurance policy is a report in which the title insurer guarantees the veracity of the report and provides indemnification to the degree that the report is incorrect and loss or damage results from that error. Title insurance is different from all other kinds of insurance in this regard. In casualty insurance parlance it is akin to writing a professional liability policy on your own work product. The premium paid is primarily a service fee that

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covers the expense of searching, analyzing, sorting, cross checking, and indexing of recorded information so that the history or "chain of title" on real property can be compiled. In addition to the guarantee feature of the title insurance coverage, the title insurer can assume certain known risks. The title insurer may take a calculated risk for business reasons in the belief that the danger of loss is remote or that if an adverse claim is asserted, the insured title can be successfully defended.

The title insurer will also assume risk upon the basis of an indemnity furnished to the insurer by the seller, mortgagor, developer or contractor. The indemnity is usually in the form of a personal indemnity agreement, accepted on the integrity and financial responsibility of the indemnitor or fortified by a deposit of cash or securities. Though not the usual practice, the indemnity could take the form of a bond executed by a surety company.

In underwriting a title policy, the title insurer eliminates the loss potential by identifying defects in the title and excluding the defects from coverage by specifically listing the defects as exceptions to otherwise clear title in an exception schedule in the title policy. This effort can be contrasted with the property or casualty insurer, where the underwriter attempts to measure the risk and magnitude of loss rather than exclude the loss from coverage. In each case, the title insurer or the property- casualty insurer, assuming it may legally offer a coverage, has the right to offer or not to offer a particular coverage, or policy form. Each is expected to exercise underwriting judgement when considering an application or order for coverage.

## ROLE OF TITLE INSURANCE IN ALASKAN ECONOMY

Title insurance including its "chain-of-title" report and subsequent guarantee, is an indispensable ingredient in the sale or transfer of real property. This is particularly true when the purchaser of real property must finance the purchase. When a lending institution agrees to finance construction on real property or the sale of real property, it is justifiably concerned with the condition of the title on that property and the priority of its interest in the real property representing its security. Title insurance provides the necessary guarantee.

Few Alaska lending institutions are capable of funding long term mortgages with their own capital. They leverage their capital and sell their real property mortgages to others, referred to as the secondary market, and reuse the replenished capital to finance more real property. The lending institution must be concerned with the requirements and expectations of the firms or organizations that purchase those loans. Without the guarantee provided via title insurance, access to the secondary market and leveraging of lender capital would be difficult, if not impossible.

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### **PURCHASE OF TITLE INSURANCE**

Title insurance is seldom purchased as a separate product or service as is often the case with such products as automobile insurance or homeowners insurance. A consumer of automobile insurance or homeowners insurance can annually reevaluate his insurance requirements, compare price and service of several competing alternative sources for this coverage, and make a choice of insurer and/or insurance agent.

Title insurance on the other hand, is generally purchased as an incidental part of another transaction for more significant to the purchaser. For example, a family purchases a new home, a transaction which requires a cash investment of several thousand dollars and a total investment, including borrowed funds, of two to five times the family annual income. This is the largest single investment of most families and may occur only a few times during the family's existence.

Consider that our hypothetical family has been consumed with decisions about the house, the location, proximity to school and services, the financing, the cost of moving, the color scheme, etc. A significant concern is to obtain the loan. As the loan transaction is completed, the family pays numerous incidentals including loan fees, appraisal costs, escrow expenses and other similar matters. Title insurance, which most home buyers do not fully understand, is "loaded in" as one of the several necessary incidentals. The buyer is generally happy to be "led" to a title company of the broker's or lender's choice. The buyer after all is in "good hands" and that is one less decision to worry about. Effectively, the person who ultimately receives the benefit of title insurance coverage and who often bears the cost of the insurance is denied the choice of insurer. Real estate brokers, attorneys and lenders generally control that choice.

### **DIVISION OF INSURANCE ACTIVITY**

As noted, placement of title insurance is generally controlled by other than the ultimate payor for or beneficiary of coverage. This reality has fostered conditions in the title insurance industry that have repeatedly forced the Division of Insurance to address one issue after another. Each address of an issue has generally been greeted with favorable reception from the industry which then individually or collectively seeks to circumvent the corrective action.

The Division of Insurance, because of staff limitations, has tended to be reactive to issues as they occur and has rarely been able to be proactive. Nevertheless, there have been attempts to anticipate challenges and to provide a situation where reaction would not be necessary. A major attempt was made in 1978 with proposed regulations which were opposed in court

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by the industry and were eventually scrapped. There have been more Division of Insurance hearings on title insurance during my 20 year tenure than any other single subject. Hearings on title insurance subjects were held on: 2/18/77; 3/15/77; 6/5-7/78; 11/13-15/79; 4/29/81; 9/10/81; and 5/22/84. Another is scheduled for 4/24/90.

During November 1989, I personally conducted 5 examinations of the Title Insurance agencies with operations in the Anchorage recording district. In each case I found that the escrow, closing and settlement operations of those firms was being subsidized by their title insurance premiums. This is barred by statute, yet it has occurred and continues now. The escrow operations meet only 33% to 70% of the expense generated by that operation. The 4/24/90 hearing directly confronts that finding. Other issues pending with the title insurance industry include:

- √ Rebating. We have an indication that at least one agency provides a monthly breakfast for a committee of "advisors" made of real estate brokers. The committee is **paid** to attend.
- √ Unordered Reports. We have evidence that at least one agency is preparing **unordered** title reports on pending real estate transactions and is **making a charge of \$250 if the order is not accepted.**
- √ Rate Structure. The current **rate structure makes little sense.** It bears little or no relationship to exposure or risk encountered. Further there is **no statistical support system** for the structure used.
- √ Influence. Title agencies allow themselves to be leveraged by mortgage lenders, real estate brokers and attorneys. In many cases they **perform services based on their title plant at no charge.** Previous orders by the director require charges commensurate with the cost of providing the service.
- √ Receivables. During the examinations we saw evidence of large numbers of transactions that were over 30, 60 or 90 days old and were not collected or in collection.

Some of these issues will be addressed in a regulatory scheme that is in progress. Others need something more immediate. I would recommend an additional series of examinations this summer to further identify challenges and establish a level playing field.

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