

HB

303

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: January 21, 2000

FURTHER REFERRALS:

HES

Date of Committee Action: 22 March 2000

The LABOR AND COMMERCE Committee considered:

HB 303

HOUSE BILL NO. 303

MISC. INSURANCE PROVISIONS

"An Act relating to the method of payment of fees and adoption of regulations under AS 21; relating to orders under AS 21 regarding risk based capital instructions; relating to accounting standards for insurance companies; amending the definitions of 'creditable coverage' and 'late enrollees' in AS 21.54; relating to requirements for small employer insurers; relating to requirements for issuance of new voting securities by an insurance company; requiring health care insurance coverage for reconstructive surgery following mastectomy; requiring guaranteed renewability of and certification of coverage regarding certain individual health insurance policies; and providing for an effective date."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____ fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) Dce D _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
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CHAIR'S SIGNATURE *New Potely* 3-22-2000

Sponsor Statement HB 303

This proposed legislation was developed by the Alaska Division of Insurance. The legislation contains several clean-up items and is non-controversial in nature with no known opposition.

The proposed legislation can be divided into two broad categories:

1. The first category relates to statutory accounting by insurance companies.
 - The division has adopted these uniform accounting standards to take effect on January 1, 2001. Amendments proposed in this bill remove obsolete sections of the insurance statutes to be consistent with these standards.
2. The second category relates to health insurance.
 - Two important amendments relating to health insurance proposed in the bill will bring Alaska's statutes into compliance with federal Health Insurance Portability and Accountability Act requirements. Passage of these amendments will allow Alaska to retain the authority to enforce these requirements on insurers marketing health insurance in Alaska and avoid federal enforcement of the provisions in Alaska.
 - Other amendments will clean up sections of the small employer health insurance act to clarify the intent of the guarantee issue requirements and fair marketing standards.

HB 303

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January 20, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

I am transmitting a bill relating to financial regulation of insurance companies and amending the state's 1997 insurance act to comply with federal requirements for health care insurance involving individuals, groups, and small employers.

The bill would amend the insurance code with respect to the accounting standards followed by insurers when reporting annually on their financial condition to the director of the division of insurance. Under the bill, certain statutes related to the reporting of insurance company assets and liabilities are amended to eliminate provisions that are obsolete or that conflict with new accounting standards adopted by the National Association of Insurance Commissioners (NAIC). Existing law requires insurers doing business in this state to adhere to such standards. This also ensures Alaska will maintain its accreditation as a state with effective insurer solvency regulation.

With respect to health care insurance, the bill puts Alaska in compliance with the federal Health Insurance Portability and Accountability Act of 1996 requiring guaranteed renewal of individual policies. Although the legislature three years ago passed amendments to the insurance code to conform to this federal law, that legislation relied on covering the market through the existing high-risk pool. But that did not take into consideration those who do not participate in the pool. This bill corrects that omission. In addition, this bill incorporates a 1998 federal mandate under the Women's Health and Cancer Rights Act requiring insurers to cover reconstructive surgery following mastectomies.

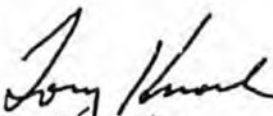
Governor

The Honorable Brian Porter
January 20, 2000
Page 2

This bill also includes several "clean-up" items to correct inadvertent errors and omissions and clarify changes made in the 1997 state law.

I urge your prompt and favorable action on this measure.

Sincerely,


Tony Knowles
Governor

**HB 303
Insurance Legislation**

**Sectional Analysis by the
Department of Community and Economic Development
Division of Insurance**

Section 1. AS 21.06.250 Electronic payment of fees, Page 1.

The amendment to this section will give the director the flexibility to require payments through electronic payment system as is currently allowed for premium tax payments.

Sec. 2. AS 21.14.010(e) Risk based capital instructions, Page 2.

The amendment to this subsection along with the amendment in Sec. 3 will resolve the conflict between AS 21.14.200(18) and this subsection regarding how the risk based capital formula is adopted. In 1997, AS 21.14.200(18) was amended to provide that "risk based capital instructions" were to be adopted by the director for the division of insurance by "order" rather than by "regulation." This change was intended to allow the director the flexibility necessary to ensure that the instructions conform to the continually refined NAIC instructions and to help achieve nationwide consistency in such instructions. Because of an oversight, the 1997 legislation did not make a necessary amendment to AS 21.14.010(e), which is the substantive statute that provides for the establishment of the risk based capital instructions. This section of the bill corrects this oversight.

Sec. 3. AS 21.14.200(18) Risk based capital instructions, Page 2.

The amendment to this definition paragraph along with the amendment in Sec. 2 will resolve the conflicting adoption requirements currently in AS 21.14.010(e) and this paragraph. The amendment removes from the definition the language that provides for the adoption of instructions by order, because such language is more appropriately placed in AS 21.14.010(e) rather than in a definition section.

Sec. 4. AS 21.18.010 Allowable assets, Page 2.

This section has been repealed and reenacted to conform to new insurance company accounting standards adopted by the National Association of Insurance Commissioners (NAIC) that insurance companies are required to follow under existing Alaska law. This section provides the basis for the recording of assets by an insurance company. While the provisions in this section are general in nature, the details for recording assets are provided in the NAIC Accounting Practices and Procedures Manual (codification) and in AS 21.18.030. Under AS 21.06.140(c), insurance companies are required to use the NAIC Accounting Practices and Procedures Manual. The requirements for premiums due from a controlling or controlled person are not repealed since the new insurance accounting standards do not have similar requirements.

Sec. 5. AS 21.18.030 Assets not allowed, Page 4.

This section has been repealed and reenacted to conform to new insurance company accounting standards adopted by the NAIC that insurance companies are required to follow under existing Alaska law. This section provides standards for the types of assets not allowed to be reported as

admitted assets by an insurance company. Details on the specific types of assets that are allowed and not allowed to be reported as admitted assets are in the NAIC Accounting Practices and Procedures Manual (codification). Under AS 21.06.140(c), insurance companies are required to use the NAIC Accounting Practices and Procedures Manual. The provisions regarding assets not allowed were repealed since they duplicated, and in some cases conflicted with, the requirements of the NAIC Accounting Practices and Procedures Manual in some manner.

Sec. 6. AS 21.18.050 Reserves and liabilities, Page 4.

This section has been repealed and reenacted to conform to new insurance company accounting standards adopted by the NAIC that insurance companies are required to follow under existing Alaska law. The amendments to this section clarify what is to be charged against assets in determining the financial condition of an insurer. In addition, a reference to taxes is removed from the stated liabilities to be charged against the assets because taxes are covered in more detail in the NAIC Accounting Practices and Procedures Manual (codification). Under AS 21.06.140(c), insurance companies are required to use the NAIC Accounting Practices and Procedures Manual.

Sec. 7. AS 21.18.073 Unearned premium reserves for title insurance, Page 5.

This section is repealed and reenacted for accreditation purposes and to remove provisions that might conflict with NAIC Accounting Practices and Procedures Manual (codification). Under current law, insurance companies are required to use the NAIC Accounting Practices and Procedures Manual to AS 21.06.140(c). The resulting language clarifies that an unearned premium reserve is required by title insurance companies and removes the duplicate requirement that the title insurer establish, segregate, and maintain a guaranty fund since a guaranty fund deposit is already required pursuant to AS 21.66.020.

Sec. 8. AS 21.18.160 Regulations for assets and liabilities, Page 5.

This is a new section to make clear that the director may adopt regulations to further clarify the statutory requirements in the chapter.

Sec. 9. AS 21.21.050 Diversification of investments, Page 5.

This section has been repealed and reenacted to conform to new insurance company accounting standards adopted by the NAIC that insurance companies are required to follow under existing Alaska law. The amendment to this section adds a limit of 10 percent of assets for investments in options and futures contracts. This limit will ensure that an insurance company's investments are not concentrated in one type of investment.

Sec. 10. AS 21.42.400 Coverage for reconstructive surgery following mastectomy, Page 7.

This section amends AS 21.42 to incorporate a federal mandate requiring insurers to cover reconstructive surgery following a mastectomy. Congress enacted this mandate in 1998 under the Women's Health and Cancer Rights Act of 1998, which amended provisions in ERISA and amended the 1997 HIPAA provisions in the Public Health Service Act (PHS). Adding this provision to statute ensures that Alaska maintains authority to enforce this federal mandate on insurers writing health insurance in Alaska.

Sec. 11. AS 21.51.400 Renewability and certification, Page 7.

The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires that individual health insurance policies be guaranteed renewable with only certain exceptions. This requirement was not included in Alaska's 1997 HIPAA legislation in error. Adding these provisions to statute ensures that Alaska maintains authority to enforce the requirements on insurers writing health insurance in Alaska.

Sec. 12. AS 21.54.500(7) Definitions, Page 8.

The current definition of creditable coverage requires two modifications to bring it into compliance with the HIPAA definition of creditable coverage. The first modification corrects the definition to include all health care insurance plans not just those offered in the group market. The second modification clarifies that coverage under any state high risk pool is creditable coverage (not just Alaska's high risk pool).

Sec. 13. AS 21.54.500(20) Definitions, Page 8.

The definition of late enrollee requires a modification due to a drafting error in Alaska's 1997 HIPAA legislation. The current definition does not require that an individual be covered under creditable coverage at the time of the initial enrollment as defined under HIPAA. The modification to this definition corrects this error.

Sec. 14. AS 21.56.110(e) Applicability, Page 9.

Alaska's 1997 HIPAA legislation inadvertently omitted the requirement that an insurer must continue to provide coverage to a small employer until the employer's next anniversary in the event that the small employer no longer meets the definition of a small employer. This section adds this requirement back into the law and is consistent with HIPAA requirements.

Sec. 15. AS 21.56.140(b) Required offer of coverage, Page 9.

This section corrects a drafting error by changing the word insurer to insurance.

Sec. 16. AS 21.56.140(c) Required offer of coverage, Page 10.

In response to several questions regarding participation requirements for small employer plans, this section clarifies that the insurer must exclude those individuals who do not select coverage because they have other similar coverage in determining whether a small employer meets the participation requirements. The effect is to assist those very small employers with for example, 2 or 3 employees in attaining group coverage.

Sec. 17. AS 21.56.140(d) Required offer of coverage, Page 10.

In response to several question regarding the requirement in this section that an insurer offer coverage to all eligible employees as defined in the chapter, this section clarifies that the employer retains the right to determine which employees to cover. The insurer must initially offer to all eligible employees, but at the request of the employer may issue coverage only to those employees the employer chooses to cover.

Sec. 18. AS 21.56.140(f) Required offer of coverage, Page 11.

To clarify the law regarding sales of health insurance to small employers, this section adds the requirement that the insurer may not discriminate in sales to small employers by their size.

Sec. 19. AS 21.56.180(a) Fair marketing standards, Page 11.

To clarify the law regarding sales of health insurance to small employers, this section adds the requirement that compensation not vary by the size of the small employer.

Section 20. Repeal, Page 11.

This section repeals AS 21.18.900(4), which is the definition of foreign currency. This definition is unnecessary since amendments to AS 21.18.010 in Section 4 remove the term from the statute. This section also repeals AS 21.21.360(b) through (f), which provided accounting guidance for investments in options and futures contracts. The NAIC Accounting Practices and Procedures Manual (codification) now provides the current accounting guidance in this area. Under current law, insurance companies are required to use the NAIC Accounting Practices and Procedures Manual pursuant to AS 21.06.140(c).

FISCAL NOTE

Bill-Version: HB 303

(H) Publish Date: 1/21/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Community & Economic Developm
 Title An Act relating to the method of payment of fees and BRU Insurance
adoption of regulations under AS 21-Insurance cleanup bill Component Insurance
 Sponsor Rules Committee
 Requester Governor Component No. 354

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact

Prepared by: Robert A. Lohr *Robert A. Lohr* Phone 269-7900
 Division Insurance *Deborah B. Sedwick* Date/Time 12-29-99 8:50 AM
 Approved by Commissioner Deborah B. Sedwick Date 12/29/99
 Agency Community & Economic Development

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**ALASKA INDEPENDENT INSURANCE AGENTS AND BROKERS, INC.
(AIIAB)
POSITION PAPER**

**HOUSE BILL 303 – MISCELLANEOUS INSURANCE PROVISIONS
SUPPORT**

The AIIAB supports this Division of Insurance presented bill in its present form (Version A). This legislation simplifies and enhances current statute for clarity and additional consumer protection.

RECEIVED

MAR 07 2000