

SB

357

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 357(L&C)
 (S) Publish Date: 3/24/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Insurance RDU Insurance (116)
 Component Insurance Operations
 Sponsor Senate Labor & Commerce
 Requester Senate Labor & Commerce Component No. 354

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation makes changes to Title 21 that are necessary to ensure that state statutes are consistent with federal law, the National Association of Insurance Commissioners (NAIC) model acts, standards and guidelines, and updates procedures and transactions related to electronic communications. It has no fiscal impact on the operations of the division.

Prepared by: Linda S. Hall, Director Phone (907) 269-7900
 Division: Insurance Date/Time 3/5/04 12:44 PM
 Approved by: Edgar Blatchford, Commissioner Date 3/5/2004
 Agency: Department of Community & Economic Development

5-9-04
adopted N/O.
LETTER OF INTENT

It is the intent of the Legislature that the Division of Insurance should take action to reform and modernize Alaska's system for insurance regulation. In order to preserve state regulation of insurance, state regulation must respond to the changing nature of the business of insurance.

Specifically, the Division of Insurance should study alternative methods for regulating rates and forms and should develop proposals for changing Alaska's existing regulatory system in order to achieve the goals of consumer protection and the fostering of a highly competitive insurance market in Alaska.

5-9-04
NO OBJ

23-LS1684\Q.4
Bullock
5/5/04

AMENDMENT 1

Williams

OFFERED IN THE HOUSE

TO: HCS CSSB 357(L&C)

1 Page 31, following line 11:

2 Insert a new bill section to read:

3 **** Sec. 58.** Section 18 of this Act takes effect July 1, 2005."

4

5 Renumber the following bill sections accordingly.

6

7 Page 31, line 13:

8 Delete "sec. 58"

9 Insert "secs. 58 and 59"

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

failed
5-9-04

23-LS1684\Q.7
Craver
5/9/04

AMENDMENT 2

OFFERED IN THE HOUSE

TO: HCS CSSB 357(L&C)

1 Page 1, line 1, following "An Act":

2 Insert "providing for a special deposit for workers' compensation insurers;
3 relating to the board of governors of the Alaska Insurance Guaranty Association;
4 stating the intent of the legislature;"

5

6 Page 1, following line 5:

7 Insert new bill sections to read:

8 **** Section 1.** The uncodified law of the State of Alaska is amended by adding a new
9 section to read:

10 **LEGISLATIVE INTENT.** It is the intent of the legislature by secs. 6, 21, and 55 of
11 this Act

12 (1) to reform the workers' compensation system in Alaska to ensure the
13 continued payment of benefits in the event of an insurer insolvency;

14 (2) to give parties affected by the insolvency of a workers' compensation
15 insurer a voice on the board of governors of the Alaska Insurance Guaranty Association; and

16 (3) to reduce the overall costs of workers' compensation premiums to
17 employers."

18

19 Page 1, line 6:

20 Delete "Section 1"

21 Insert "Sec. 2"

22

23 Renumber the following bill sections accordingly.

23-LS1684\Q.7

1

2 Page 3, following line 2:

3 Insert a new bill section to read:

4 **** Sec. 6.** AS 21.09.090 is amended by adding a new subsection to read:

5 (e) In addition to any other deposit required under this section, an insurer who
6 transacts workers' compensation insurance in this state shall maintain in the state a
7 special deposit of cash or securities eligible for deposit under AS 21.24.030 in an
8 amount not less than the basic capital or surplus required of an insurer under
9 AS 21.09.070 for the protection of persons in this state covered under workers'
10 compensation insurance. The insurer shall maintain the deposit under this subsection
11 in this state as long as there is any outstanding liability of the insurer for workers'
12 compensation in this state. If the insurer is unable to pay workers' compensation
13 claims due under AS 23.30 because the insurer is an insolvent insurer, upon the
14 director's request, the deposit is immediately available to the Alaska Insurance
15 Guaranty Association (AS 21.80) for continuation of claims benefits to eligible
16 workers. In this subsection, "insolvent insurer" has the meaning given in
17 AS 21.80.180."

18

19 Renumber the following bill sections accordingly.

20

21 Page 15, following line 5:

22 Insert a new bill section to read:

23 **** Sec. 21.** AS 21.24.130(d) is amended to read:

24 (d) Except as provided in AS 21.09.090(e). if [IF] the insurer is subject to
25 delinquency proceedings as defined in AS 21.78, upon the order of a court of
26 competent jurisdiction, the director shall yield the assets and securities held on deposit
27 to the receiver, conservator, rehabilitator, or liquidator of the insurer, or to any other
28 properly designated official or officials who succeed to the management and control of
29 the insurer's assets."

30

31 Renumber the following bill sections accordingly.

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Page 30, following line 10:

Insert a new bill section to read:

**** Sec. 55.** AS 21.80.050 is repealed and reenacted to read:

Sec. 21.80.050. Board of governors. (a) The board of governors of the association consists of nine members appointed by the director. Terms are established in the plan of operation of the association. Membership of the board of governors consists of

- (1) four members who represent member insurers;
- (2) two members who represent employers;
- (3) two members who represent labor;
- (4) one member who represents licensees.

(b) Members appointed shall serve staggered three-year terms and may be removed for cause by the director.

(c) Within 90 days after a vacancy occurs on the board, the director shall fill the vacancy for the remaining period of the term of the vacating member.

(d) In appointing a member insurer to the board, the director shall consider, among other things, whether all member insurers are fairly represented.

(e) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of governors."

Renumber the following bill sections accordingly.

Page 30, following line 30:

Insert a new bill section to read:

**** Sec. 60.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: TERMS OF BOARD OF GOVERNORS MEMBERS. (a) Notwithstanding sec. 55 of this Act, the director of insurance in the Department of Community and Economic Development shall designate members of the board of governors for the Alaska Insurance Guaranty Association to serve staggered initial terms in the manner

23-LS1684\Q.7

1 provided in AS 39.05.055.

2 (b) Terms of members of the board of governors for the Alaska Insurance Guaranty
3 Association serving on July 1, 2004, expire on July 2, 2004, but a member of the board of
4 governors on July 1, 2004, may continue to serve until a successor is appointed if the member
5 meets the standards set out in sec. 55 of this Act for the position in which the member was
6 serving on July 1, 2004. Members of the board of governors for the Alaska Insurance
7 Guaranty Association serving on July 1, 2004, may apply for reappointment to the board by
8 submitting a request to the director of insurance."

9

10 Renumber the following bill sections accordingly.

11

12 Page 31, line 12:

13 Delete "56"

14 Insert "61"

15

16 Page 31, line 13:

17 Delete "58"

18 Insert "63"

w/advance

5-9-04

23-LS1684Q.6
Bullock
5/8/04

AMENDMENT 3

OFFERED IN THE HOUSE

TO: HCS CSSB 357(L&C)

- 1 Page 30, line 30, following "AS 21.34.080(c);":
- 2 Insert "AS 21.39.155(c);"

Sectional Analysis – SB 357
Revised 5-4-04
Insurance Omnibus Bill

- Section 1 Deleted words “certified to” and replaced with “issued” in order to assist the public, industry and other regulators to electronically communicate with the division. Electronic transactions are more efficient and streamline administrative procedures.
- Section 2 Deletes “and” and substitutes “or” to clarify that contracts may not contain any of the prohibited provisions individually as was the intent of the original language
- Section 3 Deleted words “notwithstanding AS 21.86.280, medical” and replaced with “medical” in order to clarify the meaning of this section.
- Section 4 Added subsection (d) to clarify that for purposes of this section, a managed care entity means a managed care entity that is not subject to AS 21.36
- Section 5 Requires an insurer to maintain a separate deposit for assigned risk pool loss reserves which would be available to cover obligations of insolvent insurers
- Section 6 Deleted words “certified to” and replaced with “issued” in order to assist the public, industry and other regulators to electronically communicate with the division. Electronic transactions are more efficient and streamline administrative procedures.
- Section 7 Revised to make it possible for director to suspend, rather than revoke, a certificate of authority for additional one year terms so that insurer can correct the issues that caused the need for suspension. In any event, the certificate of authority will be revoked after five years of suspension.
- Section 8 Deleted word “received” and replaced with “written” to clarify the intent of the section to reflect the practical calculation methodology of taxes paid by insurers.
- Section 9 Deleted word “received” and replaced with “written” and words “income received” were deleted and replaced with “written” to clarify the intent of the section and to reflect the practical calculation methodology of taxes paid by insurers.

- Section 10 Revised the calculation methodology of late paid taxes by insurers under AS 21.09.210 and makes the penalties more consistent with Department of Revenue statutes. Taxes must be made in the form required by the director, which by regulation is automated clearinghouse debit or credit. A penalty may be assessed for willful violation of the section, and the director may revoke or suspend a certificate of authority of an insurer who fails to pay taxes or late fees.
- Section 11 Clarified the intent of the section by deleting the words "policy of" and replacing with "policy."
- Section 12 Added a subsection, which provides that premiums paid on an individual life insurance are not subject to retaliation tax under AS 21.09.270
- Section 13 Deleted the word "certified" and replaced with "issued" in order to provide for electronic communication
- Section 14 Revised to clarify that assumption of Alaska business should only be ceded to an insurer that is authorized by its domestic state to conduct the same line of business being ceded and to bring state law into compliance with the NAIC Model Credit for Reinsurance Regulation, including conditions and requirements for domestic ceding insurers and assuming insurers.
- Section 15 Revised to bring state law into compliance with the NAIC Model Credit for Reinsurance Regulation, including conditions and requirements for domestic ceding insurers and assuming insurers.
- Section 16 Added a new section that provides for the regulation of Alaska policyholder business that is transferred from an Alaska admitted insurer to a non-admitted insurer through an assumption reinsurance agreement.
- Section 17 Added a new subsection that states that the requirements of this chapter are supplemental to any other provisions of this title and do not preclude or limit any other powers or duties of the director. The addition is as given in the NAIC Model Law and required for accreditation by NAIC.
- Section 18 Added a subsection, which clarifies conditions for approval of a merger or acquisition under Chapter 22, Insurance Holding Companies, with respect to insurance buying public. The addition is as given in the NAIC Model Law and required for accreditation by NAIC.
- Section 19 Changed the numbering sequence to correspond to other changes

- Section 20 Revised to give the director the authority to issue licenses for crop and surety insurance lines of authority to qualified persons based on these lines of authority for consistency with national standards.
- Section 21 Deleted reference to trainee license for an insurance producer as it is inconsistent with the NAIC Producer Licensing Model Act that is used as a standard for national uniformity in producer licensing.
- Section 22 Deleted additional license requirements that may impose barriers to licensure for nonresidents who seek to obtain a license in our state. Requiring a company appointment for the "sole purpose to be appointed" is considered an additional requirement that may jeopardize Alaska's reciprocity under the Gramm-Leach-Bliley Act. Deleted references to fraternal licenses to conform to national licensing standards since Alaska is one of only a few states that offer this license class. A person who sells policies on behalf of a fraternal organization is already licensed for major lines (life and health) and therefore this repeal has no negative effect.
- Section 23 Corrected the statutory reference to correspond to other changes
- Section 24 Deleted reference of trainee license for an insurance producer in order to conform to NAIC standards.
- Section 25-28 Deleted inconsistent experience requirements for managing general agents, reinsurance intermediary managers, reinsurance intermediary brokers and surplus lines brokers in order to be consistent with the Gramm-Leach-Bliley Act. Included a requirement for a person seeking licensure for surplus lines authority that they also be licensed as either a producer or managing general agent, consistent with NAIC standards.
- Section 29 Revised to make it possible for health insurance to be provided through surplus lines.
- Section 30 Clarified definitions.
- Section 31 Added a new section that makes it possible for health insurance to be provided through surplus lines.
- Section 32 Amended the section to include the requirement that in order for a nonadmitted insurer to be an eligible surplus lines insurer, that it pays to the division or surplus lines association any fee required by regulation and that an annual fee required under this section and adopted as a regulation must be paid on or before June 30 of each year.
- Section 33 Added a new subsection which clarifies the meaning of "transaction."

- Section 34-36 Revised to make the regulatory process more efficient and reflective of the surplus lines marketplace based on an industry task force convened during the summer of 2003.
- Section 37 Created a penalty for late reporting.
- Section 38 Deleted word "charged" and replaced with "written" to clarify the intent of the section and to reflect the practical calculation methodology of taxes paid by insurers
- Section 39 Revised the calculation methodology of late paid taxes by surplus lines brokers under AS 21.34.180 (f). Taxes must be made in the form required by the director. A penalty may be assessed for willful violation of the section and the director may revoke or suspend a broker who fails to pay taxes or late fees.
- Section 40 Amended to include business or commercial policies issued under AS 21.34 as not included under AS 21.36.235 (c)
- Section 41 Amended to include business or commercial policies issued under AS 21.34 as not included under AS 21.36.240
- Section 42 Added a subsection which provides a person is not liable for civil damages for filing a report or furnishing other information concerning a fraudulent act to a person involved in the prevention or detection of fraudulent insurance acts or that person's employees, agents or representative. This change allows special investigation units of different insurance companies to share information without potential of liability and is based on the NAIC model act.
- Section 43 Added a subsection which provides that insurance written under AS 21.34 does not apply under this chapter.
- Section 44 Requires rates for the assigned risk pool be established to enable the pool to operate on a self-funding basis
- Section 45 Added language that provides that this section does not apply to policies issued under AS 21.34.
- Section 46 Clarified that a guaranty fund deposit is required for title insurance companies in addition to the required deposit under AS 21.66.010 (b).
- Section 47 Clarified late payment fees and penalties and director's authority to suspend or revoke the certificate of authority for title insurance companies that fail to pay its taxes, a penalty or a late payment fee.

- Section 48,49 Revised AS 21.69.390 to allow domestic insurers with operations entirely outside the state to maintain their records outside of Alaska and provide a process of getting director approval when it is necessary.
- Section 50 Revised wording regarding reinsurance for stock insurers in order to require filing of signed reinsurance agreements.
- Section 51 Revised wording regarding reinsurance for mutual insurers in order to require filing of signed major reinsurance agreements.
- Section 52,53 Revised wording regarding electronic communications and transactions in order to streamline administrative procedures and make them more efficient.
- Section 54 Added definitions for "reinsurance" and "assumption reinsurance."
- Section 55 Repealed sections in order to make state law consistent with NAIC guidelines, other revisions in the bill and to make procedures more efficient. Repeals the trainee license requirements for insurance producers, reinsurance intermediary managers, brokers, managing general agents and surplus lines brokers.
- Section 56 Added new section giving the director of insurance the authority to adopt regulations necessary to implement the changes made in this Act and providing for effective dates.
- Section 57 Added new section instructing reviser of statutes of a heading name

Alaska Department of Community
and Economic Development

Division of Insurance

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March 8, 2004

Senator Con Bunde, Chairman
Senate Labor and Commerce
Room 506
State Capitol
Juneau, Alaska 99801

RE: Senate Bill 357

The Honorable Con Bunde,

The changes to Title 21 which are proposed in SB 357 are necessary to ensure that Alaska statutes are consistent with federal law (the provisions mandated under the Gramm-Leach-Bliley Act) and with model acts and standards of the National Association of Insurance Commissioners (NAIC). A number of the proposed changes dealing with the financial oversight of insurance companies were suggested by the NAIC accreditation team as Alaska was reviewed for renewal of accredited status. It is important to continue to have the recognition of the NAIC which acknowledges compliance with national standards.

Some of the proposed changes relate to updating procedures to reflect the current insurance environment and to enable electronic communications between the Division of Insurance and the public, industry and other regulators.

Two key elements of the mission of the Division of Insurance are to protect the consumer and to enhance the insurance business environment. As we perform our regulatory oversight functions, we regularly review the provisions of Title 21 to determine our authority and to look at areas which should be changed to enable the Division staff to continue to ensure we have the tools to achieve the stated mission.

I would urge support of SB 357 and the changes that are being proposed.

Sincerely,

Linda S. Hall
Director