

**HB**

**120**

# Alaska State Legislature

## House of Representatives



State Capitol, Rm. 214  
Juneau, Ak 99801-1182  
(907) 465-3764

Official Business

### COMMITTEE ON RULES Representative Norman Rokeberg, Chairman

#### MEMORANDUM

TO: House Rules Committee Members

FROM: Rep. Norman Rokeberg, Chairman  
House Rules Committee

DATE: April 10, 2003

RE: HB 120, Amendment 2

A handwritten signature in black ink, appearing to read "Norm Rokeberg".

Attached are CS HB 120 (RLS) and a memorandum from Mike Ford, Legal Services.

I have checked with the sponsor of the amendment (Rep. McGuire) and the sponsor of the legislation (Rep. Coghill) and both are satisfied with the amendment. Therefore, I have filed the committee substitute with the Clerk's Office.

If you have any questions, please do not hesitate to contact me.

AMENDMENT

OFFERED IN THE HOUSE RULES

BY REPRESENTATIVE COGHILL

TO: HB 120\Version V

- 1 Page 2, line 19.
- 2 Insert:
- 3 (3) is not a contract of insurance under Alaska law.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 10, 2003

**SUBJECT:** Service contracts as insurance (CSHB 120(RLS))

**TO:** Representative Norman Rokeberg  
Attn: Janet

**FROM:** Michael F. Ford   
Legislative Counsel

The CS you requested is attached. I included amendment #2 adopted by the committee, but did so in a different manner than that adopted by the committee. I included the language of amendment #2 as a new clause in the beginning of subsection (e) to avoid putting substantive provisions in the definition.

Please contact me if you have further questions.

MFF:mdr  
03-071.mdr

Enclosure:

**AMENDMENT**

**TO: CS HB 120 (RLS) BY: Rokeberg**  
**23-LS0537\Ford, 4/8/03**

**OFFERED BEFORE: The House Rules Committee**

**Page 2, line 18:**

**DELETE: “, or a part of the household structure”**

**INSERT: after “system,”, insert “or”**

**Line 18 would then read:**

**“limited to a household system or appliance.”**

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSHB 120 (RLS)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
Title Excluding Service Contracts from Reg BRU Insurance (116)  
Component Insurance  
Sponsor Rep. Coghill  
Requester House Rules Component No. 354

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by: Janet S. Seitz, Staff  
Division: House Rules Committee  
Approved by: Representative Norman Rokeberg, Chairman  
Agency: House Rules Committee

Phone (907) 465-3764  
Date/Time 4/9/03 7:52 PM  
Date 4/9/2003

◇◇◇ A Quick Fax Letter ◇◇◇  
**CHARTRAND LAW OFFICE**

130 N. Cherry, Suite 202 • Olathe, KS 66061 • Phone: 913-768-4700 • Fax: 913-768-4900  
24 hour voice mail/wireless phone 913-269-4701  
E-mail: CHARTLAW @ aol.com

April 10, 2003

From: Arthur J. Chartrand, Esq.

9:35 AM CST

To: Janet

AT: Rules committee

Voice Phone 907-465-4968

FAX # 907-465-2040

Temp Fax

Fax Home

Pages to follow: 2

Re: HB 120

Dear Janet:

Thanks for the teleconference yesterday. Again we fully support HB 120 as is and desire it being adopted. Unfortunately, the DOI has just not afforded itself an education yet to fully understand this industry and all the new thinking since NAIC declared these not to be the business of insurance. I think I made some limited progress with staffers there this week, but they clearly are misinformed on the status of the industry and current legal thinking on what is insurance.

Attached is the Mississippi law signed into law just a few weeks ago. We fully expect similar type law to be enacted within weeks in Ohio, and related proposals to effectively accomplish the same in Oregon and Nevada. This comes on clear and total trend in recent years of South Dakota, North Dakota, Idaho and Montana and nearly passed measure in New Hampshire--the latter tabled action until 2004 but indications are it will easily pass it out in 2004. There remain less than a handful of states with remnants of Insurance Code treatment and NO STATE in over ten years has taken any measure to declare service contracts to be insurance. The remaining confusion is largely based upon the incorrect notion of a "home warranty." "Warranty" is a generic marketing term covering a market which is almost entirely of prepaid household service contracts.

Two suggestions if possible and if will not hinder adoption:

1.) Add clear statement below E:

**"Said contracts as defined above are not contracts of insurance under Alaska law. Exemption from the code is great, but this clause forecloses future arguments and is the NAIC position.**

2.) We would prefer the "part of a household structure" language remain only to extent that some household service contacts do provide to service or repair leaks in roofing systems. This is a valuable consumer benefit and adds little if any to cost of contract. Some states simply add a clause saying "and may cover service, repair or replacement to roofing systems." The term "household system" may not be enough for those later to conclude roof systems allowed because may argue roof systems are structural part of house.

This still leaves a large and important distinction between household service contracts and true "home warranties" that are often offered by builders or others that purport to cover the entire house structure. Thank you. I would appreciate it if we could be kept apprised of developments. We are willing to help in any way.

Visit us at [WWW.CHARTLAW.COM](http://WWW.CHARTLAW.COM)



MS Just Passed

HOUSE BILL NO. 1073

AN ACT TO DEFINE THE TERM "SERVICE CONTRACT"; TO PROVIDE THAT SERVICE CONTRACTS ARE NOT A CONTRACT OF INSURANCE UNDER MISSISSIPPI LAW AND IS EXEMPT FROM TITLE 83, MISSISSIPPI CODE OF 1972; TO PROVIDE THAT SERVICE CONTRACTS ARE SUBJECT TO THE MISSISSIPPI CONSUMER PROTECTION ACT; TO REPEAL SECTIONS 83-57-1 THROUGH 83-57-79, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE REGULATION OF HOME WARRANTIES BY THE COMMISSIONER OF INSURANCE; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) The terms "service contract," "home warranty" or "home service contract," as used in this section, means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement or maintenance of property or to reimburse, in whole or in part, the owner of such property for the repair, replacement or maintenance of property if so operational or structural failure is due to a defect in materials or manufacturing or to normal wear and tear. A service contract may contain a provision for incidental payment under such contract where service, repair or replacement is not feasible or economical.

(2) The marketing, sale, offering for sale, issuance, making, proposing to make and administration of a service contract is not a contract of insurance under Mississippi law and is exempt from the provisions of Title 83, Mississippi Code of 1972.

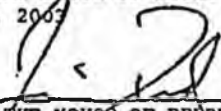
(3) Service contracts shall be subject to the provisions of the Mississippi Consumer Protection Act, Section 75-24-1 et seq.

(4) Nothing contained herein shall repeal or alter the regulation of vehicle service contracts currently defined and regulated under Section 83-65-101 et seq.

SECTION 2. Sections 83-57-1, 83-57-3, 83-57-5, 83-57-7, 83-57-9, 83-57-11, 83-57-13, 83-57-15, 83-57-17, 83-57-19, 83-57-21, 83-57-23, 83-57-25, 83-57-27, 83-57-29, 83-57-31, 83-57-33, 83-57-35, 83-57-37, 83-57-39, 83-57-41, 83-57-43, 83-57-45, 83-57-47, 83-57-49, 83-57-51, 83-57-53, 83-57-55, 83-57-57, 83-57-59, 83-57-61, 83-57-63, 83-57-65, 83-57-67, 83-57-69, 83-57-71, 83-57-73, 83-57-75, 83-57-77 and 83-57-79, Mississippi Code of 1972, which provide for the regulation of home warranties by the Commissioner of Insurance, are hereby repealed.

SECTION 3. This act shall take effect and be in force from and after its passage, and shall be applicable to all proceedings pending before the Department of Insurance or the courts of this state on the effective date of this act.

PASSED BY THE HOUSE OF REPRESENTATIVES  
February 6, 2003

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
March 6, 2003

  
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
GOVERNOR

3/14/03 AT 5:15 AM.

# Alaska State Legislature

House of Representatives



Official Business

**COMMITTEE ON RULES**  
**Representative Norman Rokeberg, Chairman**

State Capitol, Rm. 214  
Juneau, Ak 99801-1182  
(907) 465-3764

## **HOUSE RULES COMMITTEE FILES FOR APRIL 10, 2003 MEETING**

**Attached are:**

1. **CSHB 120 (RLS), 23-LS0537\V, Ford, 4/8/03. Change from last RLS draft is on page 2, lines 22-27, basically the addition of lines 26-27.**
2. **Fiscal note, CSHB 120 (RLS)**

**Please bring the following files to the meeting tomorrow:**

**HB 120  
HCR 7  
HCR 16**

**Thank you.**

23-LS0537\V  
Ford  
4/8/03

**CS FOR HOUSE BILL NO. 120(RLS)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - FIRST SESSION**

**BY THE HOUSE RULES COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVE COGHILL**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act excluding service contracts from regulation as insurance; relating to insurance  
2 licensing for motor vehicle service contracts and home warranties; and providing for an  
3 effective date."

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

5 \* Section 1. AS 21.03.021 is amended by adding a new subsection to read:

6 (e) This title does not apply to a service contract offered, issued for delivery,  
7 delivered, or renewed in this state. In this subsection, "service contract"

8 (1) means a contract or agreement for a separate or additional  
9 consideration, for a specific duration, to

10 (A) maintain, service, repair, or replace tangible personal  
11 property, or to indemnify for repair, replacement, or maintenance, for an  
12 operational or structural failure due to a defect in materials or workmanship or  
13 normal wear and tear, with or without additional provision for incidental  
14 indemnity payments when service, repair, or replacement is not reasonably or

1 commercially feasible;

2 (B) repair, replace, or maintain tangible personal property  
3 damaged as a result of power surges or as a result of accidental damage from  
4 the handling of property damaged by power surges; or

5 (C) repair, replace, or maintain household consumer goods,  
6 household appliances, and household systems, including damage resulting  
7 from operational or structural failure due to a defect in materials or  
8 workmanship or normal wear and tear;

9 (2) does not include

10 (A) mechanical breakdown insurance;

11 (B) a contract that requires an indemnity payment per incident  
12 and the payment exceeds the purchase price of the property serviced;

13 (C) retainers paid to licensed attorneys;

14 (D) insurance on a motor vehicle subject to registration under  
15 AS 28.10.011; or

16 (E) a home warranty; in this subparagraph, "home warranty"  
17 means a warranty that covers the entire home and does not include a warranty  
18 limited to a household system, appliance, or a part of the household structure.

19 \* Sec. 2. AS 21.27.010(h) is amended to read:

20 (h) This chapter does not apply to a person

21 (1) licensed to practice as an attorney at law while the person is acting  
22 as an attorney at law; or

23 (2) who sells, solicits, or negotiates a

24 (A) service contract on a motor vehicle subject to  
25 registration under AS 28.10.011; or

26 (B) home warranty; in this subparagraph, "home  
27 warranty" has the meaning given in AS 21.03.021(e)(2)(E).

28 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB 120 (RLS)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Community & Economic Development  
 Title Service Contract Sales Are BRU Insurance (116)  
Not Insurance Component Insurance  
 Sponsor Representative Coghill  
 Requester House Rules Component No. 354

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (1004)</b>	<b>(18.0)</b>	<b>(18.0)</b>	<b>(18.0)</b>	<b>(18.0)</b>	<b>(18.0)</b>	<b>(18.0)</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF (Premium Taxes)						
1005 GF/Program Receipts						
1037 GF/Mental Health						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation would exempt service contracts from the definition of insurance, therefore, insurance companies servicing them will no longer pay premium taxes. If this occurs the division estimates a loss of up to \$18,000.00 per year in premium taxes, but most likely a lesser amount.

Prepared by: Linda S. Hall Phone 907-269-7900  
 Division Insurance Date/Time 4/8/03 5:46 PM  
 Approved by: Commissioner Edgar Blatchford Date 4/8/2003  
 Agency Community & Economic Development

**CS FOR HOUSE BILL NO. 120(RLS)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-THIRD LEGISLATURE - FIRST SESSION**

**BY THE HOUSE RULES COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): REPRESENTATIVE COGHILL**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act excluding service contracts from regulation as insurance; relating to insurance**  
2 **licensing for motor vehicle service contracts; and providing for an effective date."**

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

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6 delivered, or renewed in this state. In this subsection, "service contract"

7 (1) means a contract or agreement for a separate or additional  
8 consideration, for a specific duration, to

9 (A) maintain, service, repair, or replace tangible personal  
10 property, or to indemnify for repair, replacement, or maintenance, for an  
11 operational or structural failure due to a defect in materials or workmanship or  
12 normal wear and tear, with or without additional provision for incidental  
13 indemnity payments when service, repair, or replacement is not reasonably or  
14 commercially feasible;

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(B) repair, replace, or maintain tangible personal property damaged as a result of power surges or as a result of accidental damage from the handling of property damaged by power surges; or

(C) repair, replace, or maintain household consumer goods, household appliances, and household systems, including damage resulting from operational or structural failure due to a defect in materials or workmanship or normal wear and tear;

(2) does not include

(A) mechanical breakdown insurance;

(B) a contract that requires an indemnity payment per incident and the payment exceeds the purchase price of the property serviced;

(C) retainers paid to licensed attorneys;

(D) insurance on a motor vehicle subject to registration under AS 28.10.011; or

(E) a home warranty; in this subparagraph, "home warranty" means a warranty that covers the entire home and does not include a warranty limited to a household system, appliance, or a part of the household structure.

\* Sec. 2. AS 21.27.010(h) is amended to read:

(h) This chapter does not apply to a person

(1) licensed to practice as an attorney at law while the person is acting as an attorney at law; or

(2) who sells, solicits, or negotiates a service contract on a motor vehicle subject to registration under AS 28.10.011.

\* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

# Alaska

## Department of Community and Economic Development

### Division of Insurance

P.O. Box 110805, Juneau, AK 99811-0805

Telephone: (907) 465-2515 • Fax: (907) 465-3422 • Text Telephone: (907) 465-5437

Email: [Insurance@dced.state.ak.us](mailto:Insurance@dced.state.ak.us) • Website: [www.dced.state.ak.us/insurance/](http://www.dced.state.ak.us/insurance/)

April 1, 2003

Representative John Coghill  
House Majority Leader  
State Capitol Room 204  
Juneau, Alaska 99801

Dear Representative Coghill:

Attached please find a partial list of companies who sell extended warranties in Alaska. The list has three categories, extended warranty other than auto, extended warranty mechanical breakdown and extended warranty auto service contract. As you can see, the premium tax breakdown for home and auto warranties are split almost evenly.

This information was available at the last hearing, however, the bill passed out of committee without testimony. As previously stated, insurance companies do not segregate these premium amounts on their annual reports. Therefore we called the top five, plus a few others as time permitted, before the last hearing to gather the information you requested on auto and home warranty premiums.


Our concern for home warranties is two-fold; the impact the exemption has on premium taxes and more importantly, the lack of protection available to consumers when these products are excluded from being considered insurance products. When considered an insurance product, the division is able to assist consumers if questions or problems about their coverage arise. When service contracts are not considered insurance products, consumers must use their own resources to resolve problems with the service contract provider.

We are willing to consider more encompassing language to replace "portable air conditioners, heaters and hot tubs" if appropriate terminology can be found that clearly describes what is to be exempt. Without clear language the division will need to continue to respond to

questions to clarify what products are exempt and what products are not.

I hope this information is helpful. I am available to discuss this at your convenience.

Sincerely,

A handwritten signature in cursive script that reads "Stan Ridgeway". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Stan Ridgeway  
Deputy Director

**Extended Warranty Other Than Auto**

	Premiums	
	Written	Tax
<b>Top 5 taxpayers in this category:</b>		
American Bankers Ins Co fo Florida	19,238.00	519.43
Balboa Insurance Co	-	-
Continental Casualty Co	-	-
Insurance Co of the State of PA	-	-
Gulf Ins Co	-	-
	<u>19,238.00</u>	<u>519.43</u>

**Other taxpayers:**

Greenwich Ins Co - Contractual Liability	91,381.00	2,467.29
Westchester Fire Ins Co - blank	435,378.00	11,755.21
Combined Specialty Ins Co - Contractual liab.	141,845.00	3,829.82
	<u>668,604.00</u>	<u>18,052.31</u>

**Extended Warranty Mechanical Breakdown**

	Premiums	
	Written	Tax
<b>Top 5 taxpayers in this category:</b>		
American Bankers Ins Co fo Florida	19,238.00	519.43
Federal Ins Co	-	-
Royal Ins Co of America	-	-
Firemans Fund Ins Co	53,911.00	1,455.60
Allstate Ins Co	(379.00)	(10.23)
	<u>72,770.00</u>	<u>1,964.79</u>

**Other taxpayers:**

CIM Ins Corporation	(41,885.00)	(1,130.90)
Lyndon Property Ins Co - Warranty	68,588.00	1,851.88
MIC Property and Casualty Ins Corp	602,875.00	16,277.63
FFG Ins Co - Liability for Automobile repairs	20,469.00	552.66
	<u>650,047.00</u>	<u>17,551.27</u>

**Extended Warranty Auto Service Contract**

**All Taxpayers:**

Western Diversified Casualty Ins Co	(3,489.00)	(94.20)
American Road Ins Co - ASC	(257,610.00)	(6,955.47)
American Road Ins Co - Automobile Floorplan	169,022.00	4,563.59
Heritage Indemnity Co	217,556.00	5,874.01
Triton Ins Co - VSI - Collateral Protection	1,136,888.00	30,695.98
	<u>1,262,367.00</u>	<u>34,083.91</u>

*2,673,026.00*      *72,171.71*

23-LS0537AS  
Ford  
3/31/03

**CS FOR HOUSE BILL NO. 120( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVE COGHILL**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act excluding service contracts from regulation as insurance; relating to insurance**  
2 **licensing for motor vehicle service contracts; and providing for an effective date."**

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

4 **\* Section 1.** AS 21.03.021 is amended by adding a new subsection to read:

5 (e) This title does not apply to a service contract offered, issued for delivery,  
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10 property, or to indemnify for repair, replacement, or maintenance, for an  
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12 normal wear and tear, with or without additional provision for incidental  
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(B) repair, replace, or maintain tangible personal property damaged as a result of power surges or as a result of accidental damage from the handling of property damaged by power surges;

(C) repair, replace, or maintain household consumer goods, household appliances, and household systems, including damage resulting from operational or structural failure due to a defect in materials or workmanship or normal wear and tear;

(D) provide a home warranty;

(2) does not include

(A) mechanical breakdown insurance;

(B) a contract that requires an indemnity payment per incident and the payment exceeds the purchase price of the property serviced;

(C) retainers paid to licensed attorneys; or

(D) insurance on a motor vehicle subject to registration under AS 28.10.011.

\* Sec. 2. AS 21.27.010(h) is amended to read:

(h) This chapter does not apply to a person

(1) licensed to practice as an attorney at law while the person is acting as an attorney at law; or

(2) who sells, solicits, or negotiates a service contract on a motor vehicle subject to registration under AS 28.10.011.

\* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

# ALASKA STATE HOUSE OF REPRESENTATIVES

Interim Address:

**3340 Badger Road, Suite 290**

**North Pole, AK 99705**

**(907)-488-5725**

**Fax# (907)-488-4721**



**Session Contact:**

**(907)-465-3719**

**FAX# (907)-465-3258**

**State Capitol**

**Room 204**

## REPRESENTATIVE JOHN COGHILL

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### SPONSOR STATEMENT - HB 120

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The last administration and its director of the Division of Insurance concluded that service contracts are considered insurance. Leaving the interpretation of service contracts to the will of an administration could eliminate the willingness of manufacturers to offer such contracts in Alaska.

In a 1980, Attorney General's Opinion, Avrum Gross set out guidelines for determining whether a prepaid legal services plan was insurance. He determined it was not. One determinate was that the "plan was principally engaged in offering service, not in indemnifying against risks."

Twenty states have adopted statutes or regulations treating service contracts as separate and distinct from insurance, but have done so by adopting provisions that require more government and more regulation overview. These states include Washington, Illinois, Texas, South Carolina, New York, Nevada, Wyoming and others.

HB 120 exempts service contracts from Title 21 regarding insurance. Six other states, Idaho, Montana, Nebraska, North Dakota, South Dakota and West Virginia, have taken the same approach as HB 120 and exempted service contracts from insurance statutes rather than creating more bureaucracy.

Insurance covers repair or replacement from perils such as fire, earthquake, or flood. Service contracts cover repair and replacement from a faulty part or normal wear and tear that is pretty predictable.

Incidental indemnity is in the legislation to cover a cash settlement for an appliance that repair is not possible for a variety of reasons including the possibility that parts are no longer made for the appliance. Incidental is the key word because a cash settlement would be rare and is not the primary function of the contract. If incidental indemnity is not in the statute, claims that would otherwise be settled through a cash payment would be denied.

Finally, HB 120 provides that persons who sell motor vehicle service contracts do not have to be licensed to sell insurance.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 120(L&C)  
 (H) Publish Date: 3/20/2003

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Excluding service contracts from regulation as BRU Division of Insurance  
insurance Component \_\_\_\_\_  
 Sponsor Representative Coghill Component No. \_\_\_\_\_  
 Requester \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation has no fiscal impact on state spending.

Prepared by: Representative Tom Anderson, Chairman Phone \_\_\_\_\_  
 Division: House Labor and Commerce Date/Time 3/19/03 12:00 AM  
 Approved by: Representative Tom Anderson Date 3/19/2003  
 Agency: House Labor and Commerce