

ALASKA LEGISLATURE COMMITTEE FILES 1901-1902

1758 HLC HB 159.

H

B

159

COMMITTEE REPORT

HOUSE

2/13/81

FURTHER: FINANCE

(5)

Date: 3-2-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 159

"An Act relating to workers' compensation; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING

DO PASS

Terry Gardner
Dee Rogers
Terry Mastis
Spencer

MEMBERS HAVING

OTHER RECOMMENDATIONS:

Mr. Row

Terry Mastis
 CHAIRMAN

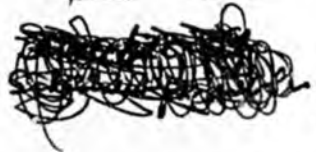
Site filed
& rec'd.

Work draft rec'd. 1-19-82
CS being worked.

Referrals

Comm. hearing - 1-25-82 thru 1-28-82 - 3-2-82 - CS adopted - notified legal & finalize
" action held

8:30 AM 3-3-82 met CS - sent to Chief Clerk's office @ 8:50 AM.



Notify Tom Finley - 586-3811
2-4-82 when next scheduled.

**PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT**

YELLOW SAME (1)

BLUE DELETED (2)

RED NEW (3)

THE ABOVE COLOR CODE WAS USED ON THE ORIGINAL TWO
DOCUMENTS OF CSHB 159 (L & C).

DOCUMENT #1 pages 1 thru end (page 10)

DOCUMENT # 2 pages 1 thru end (page 4~~5~~⁶)

THE CIRCLED NUMBERS (1, 2, and 3) ARE PLACED IN FRONT
OF THEIR RESPECTIVE COLOR CODED LINES IN THE ORIGINAL
DOCUMENTS.

IF CLARIFICATION IS NEEDED, THE ORIGINAL DOCUMENTS
MAY BE REVIEWED AT THE ALASKA STATE ARCHIVES.

Sofo ✓✓✓

1-

Original sponsor: Rules/Legislative Council

1 IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 159 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to workers' compensation; and provid-
7 ing for an effective date."

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

9 ^{Sec 66 P 44} ~~Section 1, AS 18.80.220(a)(4)~~ is amended to read:

We do not have fault in insurance I no injury Fed. el.

10 (4) an employer, labor organization or employment agency to
11 discharge, expel or otherwise discriminate against a person because he
12 has *offer of Fed. Contract Compliance To Fed. Laws,*
[Leaving handoffpage + prov-injured]

13 (A) opposed any practices forbidden under AS 18.80.200 -
14 18.80.280; [OR BECAUSE HE HAS]

15 (B) filed a complaint, testified or assisted in a pro-
16 ceeding under this chapter; or

17 (C) filed a claim for workers' compensation benefits
18 under AS 23.30; *Sec 13 P 13*

19 ^① * Sec. 2. AS 23.30.025 is amended by adding a new subsection to read:

20 (c) An insurer may issue a policy of insurance insuring the payment
21 of benefits under this chapter which provides for a deductible amount to
22 be paid by the employer. A policy with a deductible provision must be
23 approved by the director of insurance and must provide that the deduct-
24 ible amount be paid by the insurer to the employee on behalf of the
25 employer. After payment of the deductible by the insurer, the insurer
26 may recover the deductible amount from the employer. The failure of an
27 employer to reimburse an insurer for the deductible amount does not
28 relieve the insurer from any other obligation it may have under the
29 policy of insurance. An insurer is not required to apply for a deviation

1 under AS 21.39.070 in order to issue a policy under this subsection.
 2 This subsection does not apply to a policy of excess insurance purchased
 3 by a self-insurer.

Sec 17 P 17

4 ① * Sec. 3. AS 23.30.045(c) is amended to read:

5 (c) For a person eligible for vocational rehabilitation service
 6 under this chapter or AS 23.15.080 [AND] who is placed with an employer
 7 for service [WITHOUT WAGES] at the request of the board or the division
 8 [OFFICE] of vocational rehabilitation to give him on the job training,
 9 work readiness, [OR] work therapy experience [,] or work sampling, the
 10 liability set out in (a) of this section applies to the state rather
 11 than to the employer.

Sec 26 P 22

12 ① * Sec. 4. AS 23.30.080 is amended by adding a new subsection to read:

13 (d) If an employer fails to insure or provide security as required
 14 by AS 23.30.075, the board may issue a stop order prohibiting the use of
 15 employee labor by the employer until the employer insures or provides
 16 security as required by AS 23.30.075. If an employer fails to comply
 17 with a stop order issued under this section, the board shall assess a
 18 civil penalty of at least \$1,000 per day. The employer may not obtain a
 19 public contract with the state or any of its political subdivisions for
 20 one year following the violation of the stop order.

Sec 30 P 23

21 ① * Sec. 5. AS 23.30.095(a) is amended to read:

22 (a) The employer shall furnish medical, surgical, and other atten-
 23 dance or treatment, nurse and hospital service, medicine, crutches, and
 24 apparatus for the period which the nature of the injury or the process
 25 of recovery requires [, *delete* *NOT EXCEEDING* TWO YEARS FROM AND AFTER THE DATE
 26 OF INJURY TO THE EMPLOYEE. *HOWEVER*, IF THE CONDITION REQUIRING THE
 27 TREATMENT, APPARATUS, OR MEDICINE IS A LATENT ONE, THE TWO-YEAR PERIOD
 28 RUNS FROM THE TIME THE EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF HIS
 29 DISABILITY AND ITS RELATIONSHIP TO HIS EMPLOYMENT AND AFTER-DISABLEMENT.

1 IT SHALL BE ADDITIONALLY PROVIDED THAT, IF CONTINUED TREATMENT OR CARE
 2 OR BOTH BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED EMPLOYEE
 3 HAS THE RIGHT OF REVIEW BY THE BOARD. THE BOARD MAY AUTHORIZE CONTINUED
 4 TREATMENT OR CARE OR BOTH AS THE PROCESS OF RECOVERY MAY REQUIRE]. When
 5 medical care is required, the injured employee may designate a health
 6 care provider [LICENSED PHYSICIAN] inside the state to render the care
 7 except in cases where, in the judgment of the board, care or treatment
 8 or both can best be administered by the selection of another health care
 9 provider [PHYSICIAN]. Upon procuring the services of a health care
 10 provider [PHYSICIAN], the injured employee shall give proper notifica-
 11 tion of his selection to the employer within a reasonable time after
 12 first being treated. [IF FOR ANY REASON DURING THE PERIOD WHEN MEDICAL
 13 CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO ANOTHER PHYSICIAN, HE
 14 MAY DO SO IN ACCORDANCE WITH RULES PRESCRIBED BY THE BOARD.]

15 ③ ~~Sec. 6. AS 23.30.095(b)~~ is amended to read:

16 (b) If the employee is unable to designate a health care provider
 17 [PHYSICIAN] and the emergency nature of the injury requires immediate
 18 medical care, or if he does not desire to designate a health care pro-
 19 vider [PHYSICIAN] and so advises the employer, the employer shall desig-
 20 nate the health care provider [PHYSICIAN]. Designation under this
 21 subsection, however, does not prevent the employee from subsequently
 22 designating a health care provider [PHYSICIAN] for continuance of re-
 23 quired medical care.

Sec 31 P24,25

24 ① * Sec. 7. AS 23.30.095(c) is amended to read:

25 (c) No claim for medical or surgical treatment is valid and en-
 26 forceable as against the employer unless, within 20 [TWENTY] days follow-
 27 ing the first treatment ^③ ~~and following the time set by the board for~~

28 ③ ~~notice of subsequent treatments,~~ the health care provider [PHYSICIAN]
 29 giving the treatment or the employee receiving it furnishes to the

1 employer and the board notice of the injury and treatment, preferably on
 2 a form prescribed by the board. The board shall [MAY], however, excuse
 3 the failure to furnish notice within 20 days when it finds it to be in
 4 the interest of justice to do so, and it may, upon application by a
 5 party in interest, make an award for the reasonable value of the medical
 6 or surgical treatment so obtained by the employee.

7 ① * Sec. 8. AS 23.30.095(e) is amended to read:
 8 ^{Sec 32 P24}

9 (e) The employee shall, after an injury, at reasonable times
 10 during the continuance of his disability if requested by his employer
 11 or, when ordered by the board, submit himself to an examination by a
 12 health care provider [PHYSICIAN OR SURGEON] authorized to practice
 13 [MEDICINE] under the laws of the state in which the employee may be
 14 found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE
 15 RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE
 16 EXAMINATION OR EXAMINATIONS.] No fact relative to the injury or claim
 17 communicated to or otherwise learned by a health care provider [PHYSI-
 18 CIAN OR SURGEON] who may have attended or examined the employee, or who
 19 may have been present at an examination is privileged, either in the
 20 hearings provided for in this chapter or an action to recover damages
 21 against an employer who is subject to the ^{made delete} benefits [COMPENSATION] provi-
 22 sions of this chapter. If an employee refuses to submit himself to any
 23 examination provided for in this section [HEREIN], his rights to compen-
 24 sation shall be suspended until the obstruction or refusal ceases, and
 25 his compensation during the period of suspension may, in the discretion
 26 of the board or the court determining an action brought for the recovery
 27 of damages under this chapter [HEREUNDER], be forfeited. The board in
 28 any case of death may require an autopsy at the expense of the party
 29 requesting the autopsy. No autopsy may be held without notice first
 being given to the widow or widower or next of kin if they reside in the

1 state or their whereabouts can be reasonably ascertained, of the time
 2 and place of the autopsy and reasonable time and opportunity given the
 3 widow or widower or next of kin to have a representative present to
 4 witness the autopsy. If no adequate notice is given, the findings from
 5 the autopsy may be suppressed on motion made to the board or to the
 6 superior court, as the case may be.

7 ^{Sec 36 P26} * Sec. 9. AS 23.30.105(a) is amended to read:

8 (a) The right to benefits [COMPENSATION FOR DISABILITY] under this
 9 chapter is barred unless a claim for them [IT] is filed within two years
 10 after the employee has knowledge of the nature of his disability and its
 11 relation to his employment and after disablement. The [HOWEVER, THE
 12 MAXIMUM TIME FOR FILING THE CLAIM IN ANY EVENT OTHER THAN ARISING OUT OF
 13 AN OCCUPATIONAL DISEASE SHALL BE FOUR YEARS FROM THE DATE OF INJURY, AND
 14 THE] right to benefits [COMPENSATION] for death is barred unless a claim
 15 for benefits [THEREFORE] is filed within one year after the death. If [,
 16 EXCEPT THAT IF] payment of compensation has been made without an award
 17 on account of the injury or death, a claim may be filed within two years
 18 after the date of the last payment. It is additionally provided that,
 19 in the case of a latent injury [DEFECTS PERTINENT TO AND CAUSING COMPEN-
 20 SABLE DISABILITY], the injured employee has full right to claim as shall
 21 be determined by the board, time limitations notwithstanding.

22 ^{Sec 40 P30} * Sec. 10. AS 23.30.110(c) is amended to read:

23 (c) The board shall make the investigation which it considers
 24 necessary in respect of the claim, and upon application of an interested
 25 party shall order a hearing on it. If a hearing on a claim is ordered,
 26 the board shall give the claimant and other interested parties at least
 27 10 days' notice of the hearing, served personally upon the claimant and
 28 other interested parties or sent by registered mail, and shall, within
 29 30 [20] days after the hearing is held [HAD], by order, reject the claim

or make an award in respect to it. ³ ~~If a hearing is continued by the~~

³ ~~board, additional notice under this subsection is not required.~~ [IF NO

HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN

(b) OF THIS SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE

AN AWARD IN RESPECT TO IT.]

SEC 45 P 33

¹* Sec. 11. AS 23.30.155(j) is amended to read:

(j) If an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed, after approval by the board, out of any unpaid installment or installments of compensation due.

SEC 46 P 33

¹* Sec. 12. AS 23.30.155 is amended by adding new subsections to read:

(n) Compensation owed to an injured employee in the state shall be paid by a check or draft that may be cashed on the first banking day after it is received by the employee and on any succeeding banking day.

(o) If the board determines that it is in the interest of an injured employee and that a substantial hardship will not be imposed on the employer, the liability of the employer for all or part of compensation payable under AS 23.30.190 may be discharged by the payment of a lump sum.

SEC 51 P 36

¹* Sec. 13. AS 23.30.175(b) is repealed and reenacted to read:

(b) After June 30 and before December 1 of each year, the commissioner shall adopt and publish the average weekly wage for each jurisdiction for the preceding calendar year as published by the United States Secretary of Labor for the purposes of unemployment insurance. In determining the rate of compensation the commissioner shall use the average weekly wage figure for each jurisdiction, including Alaska, for which the Secretary of Labor computes an average weekly wage. These figures are the applicable average weekly wages for those jurisdictions for the following calendar year.

Sec 52 P 36,37

1 ① * Sec. 14. AS 23.30.175(c) is repealed and reenacted to read:

2 (c) The following rules apply to recipients who do not reside in
3 Alaska:

4 (1) The weekly rate of compensation shall be calculated by
5 multiplying the recipient's average weekly wage times the ratio of the
6 average weekly wage of the jurisdiction in which the recipient resides
7 to the average weekly wage of Alaska. The rate is based on the average
8 weekly wages in effect when the recipient leaves Alaska and shall be
9 adjusted annually upon publication of the average weekly wages for all
10 jurisdictions.

11 (2) The calculation required by this subsection does not
12 apply if the recipient is absent from Alaska for medical or rehabilita-
13 tion services not reasonably available in Alaska.

14 (3) If the average weekly wage of the recipient and the
15 resulting compensation rate is determined under AS 23.30.220(2) the
16 calculation required by this subsection applies to only those wages
17 earned in Alaska.

18 (4) Application of this subsection may not result in a reduc-
19 tion of the weekly compensation rate to less than \$65 a week except as
20 provided in (a) of this section.

Sec 53 P 37

21 * Sec. 15. AS 23.30.175(d) is repealed and reenacted to read:

22 (d) In a jurisdiction for which no average weekly wage is computed
23 by the United States Secretary of Labor for the purposes of unemployment
24 insurance, the average weekly wage shall be as determined by the commis-
25 sioner.

Sec 55 P 38,39,40

26 ① * Sec. 16. AS 23.30.190(a)(20) is amended to read:

27 (20) in all other cases in this class of disability the
28 compensation is 66-2/3 percent of the difference between his average
29 weekly wages and his wage-earning capacity after the injury in the same

1 employment or otherwise, payable during the continuance of the partial
 2 disability, but subject to reconsideration of the degree of the impair-
 3 ment by the board on its own motion or upon application of a party in
 4 interest; [WHENEVER THE BOARD DETERMINES THAT IT IS IN THE INTEREST OF
 5 JUSTICE, THE LIABILITY OF THE EMPLOYER FOR COMPENSATION, OR ANY PART OF
 6 IT AS DETERMINED BY THE BOARD, MAY BE DISCHARGED BY THE PAYMENT OF A
 7 LUMP SUM;]

Sec 56 P40

8 ① * Sec. 17. AS 23.30.191 is repealed and reenacted to read:

9 Sec. 23.30.191. EXPENSES FOR REHABILITATING INJURED EMPLOYEES. An
 10 employee, who, as a result of injury, is or may be expected to be totally
 11 or partially incapacitated for his normal occupation and who, under the
 12 direction of the board, is being rehabilitated to engage in a remunera-
 13 tive occupation, may receive compensation necessary for his rehabilita-
 14 tion of 66-2/3 percent of his average weekly wage subject to the maximum
 15 payable under AS 23.30.175.

Sec 58 P41

16 ① * Sec. 18. AS 23.30.215(a)(1) is amended to read:

17 (1) reasonable and necessary funeral expenses not exceeding

18 ③ ~~\$2,500~~ [\$1,000];

19 ③ * Sec. 19. AS 23.30.220(2) is amended to read:

20 (2) the average weekly wage is [THAT MOST FAVORABLE TO THE
 21 EMPLOYEE] calculated by dividing 456 [52] into the total wages earned,
 22 including self-employment, in the highest paid three consecutive years
 23 out of [ANY ONE OF] the five [THREE] calendar years immediately preced-
 24 ing the injury;

Sec 63 P43

25 ① * Sec. 20. AS 23.30.250 is amended to read:

26 Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who wil-
 27 fully makes a false or misleading statement or representation for the
 28 purpose of obtaining a benefit or payment under this chapter is guilty
 29 of theft as defined in AS 11.46.100(3) and is punishable as provided in

1 AS 11.46.120 - 11.46.150 [A MISDEMEANOR, AND UPON CONVICTION IS PUNISH-
2 ABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRISONMENT FOR NOT MORE
3 THAN ONE YEAR, OR BY BOTH]

4 ① * Sec. 21. AS 23.30.265(16) is amended to read:

5 (16) "medical and related benefits" includes but is not
6 limited to physicians' fees, nurses' charges, pain clinic services,
7 hospital services, hospital supplies, medicine and prosthetic devices,
8 physical rehabilitation, and treatment for the fitting and training for
9 use of such devices as may reasonably be required which arises out of or
10 is necessitated by an injury, and transportation charges to the nearest
11 point where adequate medical facilities are available;

12 ① * Sec. 22. AS 23.30.265(20) is amended to read:

13 (20) "wages" means the money rate at which the service ren-
14 dered is recompensed under the contract of hiring [IN FORCE AT THE TIME
15 OF THE INJURY,] and includes the reasonable value of board, rent,
16 housing, lodging, or similar advantage received from the employer, and
17 gratuities received in the course of employment from other [OTHERS] than
18 the employer;

19 ① * Sec. 23. AS 23.30.265 is amended by adding new paragraphs to read:

20 (29) "benefits" means compensation and medical and related
21 benefits;

22 (30) "health care provider" means a chiropractor licensed
23 under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist
24 licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing
25 optician licensed under AS 08.71; an optometrist licensed under AS 08.72;
26 a pharmacist licensed under AS 08.80; a physical therapist licensed
27 under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a
28 psychologist and a psychological associate licensed under AS 08.86; and
29 a hospital as defined in AS 18.20.130, including a governmentally owned

1 or operated hospital; a corporate entity covered under AS 21.88.050-
2 (b)(12); an employee of a health care provider acting within the course
3 and scope of his employment; and persons comparably licensed in other
4 jurisdictions to provide health care;

5 (3) (3) "in the course of employment" includes travel to and from

6 (3) a remote job site but does not include activities outside of working

7 (3) hours off a site provided by the employer that are not under the super-

8 (3) vision or control of the employer.

SEC 72 P46

9 (1) * Sec. 24. AS 23.30.095(g), 23.30.125(b), 23.30.175(e) and (f), and
10 23.30.225(b) are repealed.

SEC 73 P46

11 (1) * Sec. 25. This Act takes effect July 1, 1982.

office copy

BY THE LABOR AND
COMMERCE COMMITTEE

IN THE HOUSE

CS FOR HOUSE BILL NO. 159 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

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

* Section 1. The purpose of sec. 3 of this Act is to provide both protection for injured employees and flexibility for employers in making the alternative of self-insurance available to those employers required under AS 23.30 to provide workers' compensation insurance coverage for their employees.

② * Sec. 2. AS 21.39.030(a)(4) is amended to read:

(4) risks may be grouped by classifications for the establishment of rates and minimum premiums and shall be segregated and developed separately for workers' compensation insurance on construction projects that are extraordinary in scope or nature; classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both; the standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses;

② * Sec. 3. AS 21 is amended by adding a new chapter to read:

CHAPTER 62. WORKERS' COMPENSATION SELF-INSURANCE.

Sec. 21.62.010. SELF-INSURANCE. An employer or two or more employers having a common management or two or more employers having a common interest may elect to pay directly the compensation required in AS 23.30 after providing satisfactory proof of financial ability to

make direct payments and receiving a self-insurance certificate from the director.

② Sec. 21.62.020. SELF-INSURANCE FUND. (a) A workers' compensation self-insurance group formed by two or more employers having a common interest shall establish and keep a self-insurance fund with a minimum balance to be determined by the director, but not less than \$250,000. The director may adopt regulations to maintain the solvency of the fund.

(b) The fund shall be administered by a board of trustees selected by members of the common interest self-insurance group.

(c) A majority of the trustees of the fund must be members of the self-insurance group.

(d) A trustee of a fund may not be an owner, officer, or employee of the service company used by the common interest self-insurance group which established the fund.

(e) The common interest self-insurance group shall adopt bylaws governing the operation of the fund.

Sec. 21.62.030. APPLICATION. (a) An employer desiring to become an individual self-insurer or two or more employers having common management desiring to become a group self-insurer shall submit an application to the division on a form prescribed by the director.

(b) The trustees of the fund of a common interest group desiring to become a group self-insurer shall submit an application to the division on a form prescribed by the director.

(c) An applicant for self-insurance shall answer all questions on the application. The answers shall be sworn to and notarized. The application shall be submitted at least 90 days before the proposed effective date or renewal date of the self-insurance certificate.

Sec. 21.62.040. CONTENTS OF APPLICATION. An applicant for self-

(2)

insurance shall submit the following with the application for self-insurance:

- (1) evidence of working capital of an amount which establishes the financial strength and liquidity to pay normal compensation claims promptly;
- (2) the proposed amount of retention per loss and retention in the aggregate;
- (3) the proposed program of excess insurance coverage;
- (4) proof that the applicant has ample facilities and competent personnel to service the self-insurance plan or a copy of a signed service agreement with an approved service company to provide that service;
- (5) the location in this state where all records of self-insured loss will be maintained;
- (6) a description of any loss control or safety programs to be used by the applicant;
- (7) Any further evidence which the director may require to establish the ability of the applicant to meet its obligations under AS 23.30.

Sec. 21.62.050. DOCUMENTS REQUIRED OF INDIVIDUAL SELF-INSURER. In addition to the information required under AS 21.62.040, an application for individual self-insurance shall be accompanied by

- (1) a financial statement not more than three months old at the time of the application showing a net worth of not less than \$500,000;
- (2) an agreement to fully discharge by cash payment all amounts required to be paid under AS 23.30.

Sec. 21.62.060. DOCUMENTS REQUIRED OF COMMON MANAGEMENT SELF-INSURANCE GROUP. In addition to the information required under AS 21.-

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62.040, an application for group self-insurance by a common management group shall be accompanied by

(1) a financial statement not more than three months old at the time of application for each member of the group showing a combined net worth of all members of the group to be not less than \$500,000;

(2) an indemnity agreement jointly and severally binding each member of the common management self-insurance group to fully discharge by cash payment all amounts required to be paid under AS 23.30.

Sec. 21.62.070. DOCUMENTS REQUIRED OF COMMON INTEREST SELF-INSURANCE GROUP. In addition to the information required under AS 21.62.040, an application for group self-insurance by the trustees of the fund of a common interest group shall be accompanied by

(1) a financial statement not more than three months old at the time of the application for each member applying for coverage on the inception date of the fund showing a combined net worth of all members of the common interest self-insurance group of not less than \$1,000,000;

(2) an indemnity agreement jointly and severally binding the fund and each member of the common interest self-insurance group to fully discharge by cash payment all amounts required to be paid under AS 23.30;

(3) An individual application for each member of the common interest self-insurance group, applying for coverage under the fund;

(4) a set of bylaws or a trust agreement which shall govern the operation of the fund;

(5) proof of the existence of the minimum balance in the fund as required under AS 21.62.020(a);

(6) an estimate of all administrative expenses of the fund

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for the period for which the self-insurance certificate is to be issued.

Sec. 21.62.080. REVIEW AND DECISION OF DIRECTOR. (a) The director shall review the contents of an application for self-insurance and determine whether the applicant has the financial ability to meet its obligations under AS 23.30.

(b) The director shall determine the amount of excess insurance coverage necessary for the discharge of the obligations of the employer under AS 23.30 and the protection of the applicant.

(c) The director may require a surety bond under AS 21.62.100 as a condition to issuance of a self-insurance certificate.

(d) The director shall give written notice to the applicant not later than 30 days before the proposed effective date of his approval or denial of an application for self-insurance. If the application is approved, the notice shall list the conditions which must be met before the self-insurance certificate is issued. If the application is denied, the notice shall state the specific reasons for the denial.

(e) A decision of the director is subject to the hearing and appeal procedure under AS 21.06.180 - 21.06.230.

Sec. 21.62.090. SELF-INSURANCE CERTIFICATE. Upon approval of an application and receipt of proof of any conditions established under AS 21.62.080(d), the director shall issue a self-insurance certificate to the applicant. The self-insurance certificate shall be on a form prescribed by the director and shall be issued for a period of one year.

Sec. 21.62.100. BOND. (a) With each application for self-insurance or application for renewal of a self-insurance certificate the director may require a corporate surety bond to secure the payment of obligations under AS 23.30 as they are incurred. The bond shall be on a form prescribed by the director and shall be issued by a corporate.

②

②

surety authorized under AS 21.09 to do business in this state. The amount of the bond for each year shall be equal to or greater than the aggregate retention of the self-insurer but not less than \$25,000.

(b) A bond secured in compliance with this section may not be cancelled, exchanged, or replaced unless 60 days written notice is given to the director and to the self-insurer.

Sec. 21.62.110. EXCESS INSURANCE. (a) The director shall determine the amount and kind of excess insurance required of an applicant for self-insurance based on the financial strength, past history of loss, and degree of hazard in the operations of the applicant and any other factors he considers appropriate.

(b) Excess insurance coverage shall be written by a casualty insurer authorized under AS 21.09 to do business in this state, except that the director may approve a policy of excess insurance with coverage starting at \$1,000,000 with an insurer writing insurance in this state under AS 21.33.

(c) A policy of excess insurance issued under this chapter may not be cancelled unless the excess insurer gives 60 days written notice by certified mail to the director and to the self-insurer.

(d) The policy of excess insurance shall contain a provision that the director may order the payment of obligations due under the terms of the policy to a party other than the employer if necessary to assure the prompt payment of benefits to injured employees.

(e) A policy of excess insurance under this chapter shall cover each employer named in the application for self-insurance under AS 21.62.030 and no other employers.

Sec. 21.62.120. SERVICING FOR SELF-INSURERS. (a) It is the sole responsibility of a self-insurer to provide competent persons to service its programs for claims adjusting, underwriting, and loss control.

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office copy

IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 159 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

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

* Section 1. The purpose of sec. 3 of this Act is to provide both protection for injured employees and flexibility for employers in making the alternative of self-insurance available to those employers required under AS 23.30 to provide workers' compensation insurance coverage for their employees.

② * Sec. 2. AS 21.39.030(a)(4) is amended to read:

(4) risks may be grouped by classifications for the establishment of rates and minimum premiums and shall be segregated and developed separately for workers' compensation insurance on construction projects that are extraordinary in scope or nature; classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both; the standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses;

② * Sec. 3. AS 21 is amended by adding a new chapter to read:

CHAPTER 62. WORKERS' COMPENSATION SELF-INSURANCE.

Sec. 21.62.010. SELF-INSURANCE. An employer or two or more employers having a common management or two or more employers having a common interest may elect to pay directly the compensation required in AS 23.30 after providing satisfactory proof of financial ability to

make direct payments and receiving a self-insurance certificate from the director.

② Sec. 21.62.020. SELF-INSURANCE FUND. (a) A workers' compensation self-insurance group formed by two or more employers having a common interest shall establish and keep a self-insurance fund with a minimum balance to be determined by the director, but not less than \$250,000. The director may adopt regulations to maintain the solvency of the fund.

(b) The fund shall be administered by a board of trustees selected by members of the common interest self-insurance group.

(c) A majority of the trustees of the fund must be members of the self-insurance group.

(d) A trustee of a fund may not be an owner, officer, or employee of the service company used by the common interest self-insurance group which established the fund.

(e) The common interest self-insurance group shall adopt bylaws governing the operation of the fund.

Sec. 21.62.030. APPLICATION. (a) An employer desiring to become an individual self-insurer or two or more employers having common management desiring to become a group self-insurer shall submit an application to the division on a form prescribed by the director.

(b) The trustees of the fund of a common interest group desiring to become a group self-insurer shall submit an application to the division on a form prescribed by the director.

(c) An applicant for self-insurance shall answer all questions on the application. The answers shall be sworn to and notarized. The application shall be submitted at least 90 days before the proposed effective date or renewal date of the self-insurance certificate.

Sec. 21.62.040. CONTENTS OF APPLICATION. An applicant for self-

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insurance shall submit the following with the application for self-insurance:

- (1) evidence of working capital of an amount which establishes the financial strength and liquidity to pay normal compensation claims promptly;
- (2) the proposed amount of retention per loss and retention in the aggregate;
- (3) the proposed program of excess insurance coverage;
- (4) proof that the applicant has ample facilities and competent personnel to service the self-insurance plan or a copy of a signed service agreement with an approved service company to provide that service;
- (5) the location in this state where all records of self-insured loss will be maintained;
- (6) a description of any loss control or safety programs to be used by the applicant;
- (7) Any further evidence which the director may require to establish the ability of the applicant to meet its obligations under AS 23.30.

Sec. 21.62.050. DOCUMENTS REQUIRED OF INDIVIDUAL SELF-INSURER. In addition to the information required under AS 21.62.040, an application for individual self-insurance shall be accompanied by

- (1) a financial statement not more than three months old at the time of the application showing a net worth of not less than \$500,000;
- (2) an agreement to fully discharge by cash payment all amounts required to be paid under AS 23.30.

Sec. 21.62.060. DOCUMENTS REQUIRED OF COMMON MANAGEMENT SELF-INSURANCE GROUP. In addition to the information required under AS 21.-

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62.040, an application for group self-insurance by a common management group shall be accompanied by

(1) a financial statement not more than three months old at the time of application for each member of the group showing a combined net worth of all members of the group to be not less than \$500,000;

(2) an indemnity agreement jointly and severally binding each member of the common management self-insurance group to fully discharge by cash payment all amounts required to be paid under AS 23.30.

Sec. 21.62.070. DOCUMENTS REQUIRED OF COMMON INTEREST SELF-INSURANCE GROUP. In addition to the information required under AS 21.62.040, an application for group self-insurance by the trustees of the fund of a common interest group shall be accompanied by

(1) a financial statement not more than three months old at the time of the application for each member applying for coverage on the inception date of the fund showing a combined net worth of all members of the common interest self-insurance group of not less than \$1,000,000;

(2) an indemnity agreement jointly and severally binding the fund and each member of the common interest self-insurance group to fully discharge by cash payment all amounts required to be paid under AS 23.30;

(3) An individual application for each member of the common interest self-insurance group, applying for coverage under the fund;

(4) a set of bylaws or a trust agreement which shall govern the operation of the fund;

(5) proof of the existence of the minimum balance in the fund as required under AS 21.62.020(a);

(6) an estimate of all administrative expenses of the fund

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for the period for which the self-insurance certificate is to be issued.

Sec. 21.62.080. REVIEW AND DECISION OF DIRECTOR. (a) The director shall review the contents of an application for self-insurance and determine whether the applicant has the financial ability to meet its obligations under AS 23.30.

(b) The director shall determine the amount of excess insurance coverage necessary for the discharge of the obligations of the employer under AS 23.30 and the protection of the applicant.

(c) The director may require a surety bond under AS 21.62.100 as a condition to issuance of a self-insurance certificate.

(d) The director shall give written notice to the applicant not later than 30 days before the proposed effective date of his approval or denial of an application for self-insurance. If the application is approved, the notice shall list the conditions which must be met before the self-insurance certificate is issued. If the application is denied, the notice shall state the specific reasons for the denial.

(e) A decision of the director is subject to the hearing and appeal procedure under AS 21.06.180 - 21.06.230.

Sec. 21.62.090. SELF-INSURANCE CERTIFICATE. Upon approval of an application and receipt of proof of any conditions established under AS 21.62.080(d), the director shall issue a self-insurance certificate to the applicant. The self-insurance certificate shall be on a form prescribed by the director and shall be issued for a period of one year.

Sec. 21.62.100. BOND. (a) With each application for self-insurance or application for renewal of a self-insurance certificate the director may require a corporate surety bond to secure the payment of obligations under AS 23.30 as they are incurred. The bond shall be on a form prescribed by the director and shall be issued by a corporate.

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surety authorized under AS 21.09 to do business in this state. The amount of the bond for each year shall be equal to or greater than the aggregate retention of the self-insurer but not less than \$25,000.

(b) A bond secured in compliance with this section may not be cancelled, exchanged, or replaced unless 60 days written notice is given to the director and to the self-insurer.

Sec. 21.62.110. EXCESS INSURANCE. (a) The director shall determine the amount and kind of excess insurance required of an applicant for self-insurance based on the financial strength, past history of loss, and degree of hazard in the operations of the applicant and any other factors he considers appropriate.

(b) Excess insurance coverage shall be written by a casualty insurer authorized under AS 21.09 to do business in this state, except that the director may approve a policy of excess insurance with coverage starting at \$1,000,000 with an insurer writing insurance in this state under AS 21.33.

(c) A policy of excess insurance issued under this chapter may not be cancelled unless the excess insurer gives 60 days written notice by certified mail to the director and to the self-insurer.

(d) The policy of excess insurance shall contain a provision that the director may order the payment of obligations due under the terms of the policy to a party other than the employer if necessary to assure the prompt payment of benefits to injured employees.

(e) A policy of excess insurance under this chapter shall cover each employer named in the application for self-insurance under AS 21.62.030 and no other employers.

Sec. 21.62.120. SERVICING FOR SELF-INSURERS. (a) It is the sole responsibility of a self-insurer to provide competent persons to service its programs for claims adjusting, underwriting, and loss control.

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(b) A self-insurer may contract with one or more approved service companies to provide these services on a full-time basis.

(c) The department shall adopt regulations for approving service companies under this section.

Sec. 21.62.130. RECORDS. (a) A self-insurer or a service company on behalf of a self-insurer shall maintain all claims records at a location in the state.

(b) The records of a self-insurer which relate to self-insurance under this chapter are subject to guidelines established by the director concerning their retention and the review of those records by the director.

(c) All claims files of a self-insurer are subject to review by the director during normal business hours at a location in the state as stated in the application for self-insurance.

Sec. 21.62.140. REPORTS. The director may by regulation require reports concerning payroll, losses, reserves, financial condition, and other matters reasonably related to the ability of a self-insurer to meet its obligations under AS 23.30. Failure to comply with these regulations is cause for revocation of a self-insurance certificate.

Sec. 21.62.150. INDEMNITY AGREEMENT. The director may by regulation establish the provisions of the indemnity agreement required under AS 21.62.060(2) and 21.62.070(2). An indemnity agreement may contain other provisions that are consistent with the provisions adopted by regulation.

Sec. 21.62.160. REVOCATION OF A SELF-INSURANCE CERTIFICATE. (a) Failure to comply with the provisions of this chapter or AS 23.30 is grounds for revocation of a self-insurance certificate.

(b) The director shall give a self-insurer 30 days written notice of a proposed revocation of a self-insurance certificate. The notice

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of proposed revocation shall contain a statement of the reasons for revocation. Revocation is effective 30 days after a self-insurer receives a notice of proposed revocation unless the self-insurer requests a hearing within 15 days after receiving notice of proposed revocation. Revocation shall be stayed until the hearing process is completed.

(c) A self-insurer may appeal an order under this section as provided in AS 21.06.230.

Sec. 21.62.170. INDEXING. The director may adopt regulations to provide for a revision of the dollar amounts in AS 21.62.020(a), 21.62.050(1), 21.62.060(1), 21.62.070(1), 21.62.100(a), and 21.62.110(f) to reflect devaluation of those amounts due to inflation.

Sec. 21.62.200. DEFINITIONS. In this chapter

(1) "common interest self-insurance group" means a group of employers that are in the same or similar type of business and includes unrelated businesses which are owned or controlled by the same person or persons if one of the unrelated businesses is the same or similar type of business as the other businesses in the group;

(2) "common management self-insurance group" means a group of employers which have businesses that are owned or controlled by the same persons;

(3) "fund" means a self-insurance fund;

(4) "trustee" means a person elected by a common interest self-insurance group for a stated term to direct the administration of a fund.

* Sec. 4. AS 18.80.220(a)(4) is amended to read:

(4) an employer, labor organization or employment agency to discharge, expel or otherwise discriminate against a person because he has

(A) opposed any practices forbidden under AS 18.80.-

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200 - 18.80.280; [OR BECAUSE HE HAS]

(B) filed a complaint, testified or assisted in a proceeding under this chapter; or

(C) filed a claim for workers' compensation benefits under AS 23.30;

② * Sec. 5. AS 21.36.190(d) is amended to read:

(d) This section does not apply to workers' compensation insurance when issued to an association of employers in the same rating classification [FORMED FOR PURPOSES OTHER THAN THE PURCHASE OF INSURANCE] and which as a group

(1) has a constitution and bylaws;

(2) incorporates a safety program;

[(3) AS A GROUP HAS PREFERRED CHARACTERISTICS OVER SIMILAR RISKS WRITTEN ON AN INDIVIDUAL BASIS;] and

(4) has filed and received approval from the director for the rating program to be applied to the group.

② * Sec. 6. AS 21.39.040(d) is amended to read:

(d) Subject to the exceptions [EXCEPTION] specified in (e) of this section and AS 21.39.045, each filing shall be on file for a waiting period of 15 days before it becomes effective, which period may be extended by the director for an additional period not to exceed 15 days if he gives written notice within the waiting period to the insurer or rating organization which made the filing stating that he needs additional time for the consideration of the filing. Upon written application by the insurer or rating organization, the director may authorize a filing which he has reviewed to become effective before the expiration of the waiting period. A filing shall be considered to meet the requirements of this chapter unless disapproved by the director within the waiting period.

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* Sec. 7. AS 21.39 is amended by adding a new section to read:

Sec. 21.39.045. WORKERS' COMPENSATION RATE FILINGS. (a) A filing of workers' compensation rates by a rating organization shall be limited to provisions for claim payment and may not include allowances for expenses, taxes, or profit, except as necessary for full rate development for an assigned risk pool under AS 21.39.155.

(b) If each rate in a schedule of workers' compensation rates for a specific classification of risks filed by an insurer is not lower than the rate for each respective classification filed by a rating organization in accordance with (a) of this section and approved by the director, the schedule of rates filed by the insurer is effective immediately and the waiting period in AS 21.39.040(d) is not required.

(c) Notwithstanding (b) of this section, the director may require an insurer to comply with the waiting period in AS 21.39.040(d) for a rate filing or part of a rate filing if he determines that the rate filing or part of the rate filing is excessive, inadequate, or unfairly discriminatory.

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* Sec. 8. AS 21.39.070 is amended by adding new subsections to read:

(c) Notwithstanding (a) of this section, a filing by an insurer of an independent deductible or loss reimbursement plan is not considered a deviation under this section.

(d) Notwithstanding (a) of this section, a filing of workers' compensation rates under AS 21.39.045(b) is not a deviation under this section.

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* Sec. 9. AS 23.30.010 is amended to read:

Sec. 23.30.010. COVERAGE. Benefits are [COMPENSATION IS] payable under this chapter in respect of disability or death of an employee.

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* Sec. 10. AS 23.30.015 is amended to read:

Sec. 23.30.015. BENEFITS [COMPENSATION] WHERE THIRD PERSONS ARE

LIABLE. (a) If on account of disability or death for which benefits [COMPENSATION IS] payable under this chapter the person entitled to the benefits [COMPENSATION] believes that a third person other than the employer or a fellow employee is liable for damages, he need not elect whether to receive benefits [COMPENSATION] or to recover damages from the third person.

(b) Acceptance of benefits [COMPENSATION] under an award in a compensation order led by the board operates as an assignment to the employer of all rights of the person entitled to benefits [COMPENSATION] and the personal representative of a deceased employee to recover damages from the third person unless the person or representative entitled to benefits [COMPENSATION] commences an action against the third person within one year after an award.

(c) Payment of compensation into the second-injury fund as a result of death operates as an assignment to the employer of all rights of the representative of the deceased to recover damages from the third person.

(d) An employer under an assignment may either institute proceedings for the recovery of damages or may compromise with a third person, either without or after instituting an action.

(e) An amount recovered by the employer under an assignment, whether by action or compromise, shall be distributed as follows:

(1) The employer shall retain an amount equal to

- (A) the expenses incurred by him in respect to the action or compromise, including a reasonable attorney fee determined by the board;
- (B) the cost of all benefits actually furnished by him under this chapter;
- (C) all amounts paid as compensation and second-injury

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fund payments;

(D) the present value of all amounts payable later as compensation (present value to be computed from a schedule prepared by the board), and the present value of the cost of all benefits to be furnished later under AS 23.30.095 (as estimated by the board), the amounts so computed and estimated to be retained by the employer as a trust fund to pay compensation and cost of benefits as they become due and to pay any finally remaining excess sum to the person entitled to benefits [COMPENSATION] or to the representative; and

(2) the employer shall pay any excess to the person entitled to benefits [COMPENSATION] or to his representative.

(f) Even if an employee, his representative, or his employer brings an action or settles a claim against the third person, the employer shall pay the benefits [AND COMPENSATION] required by this chapter.

(g) If the employee or his representative recovers damages from the third person, the employee or representative shall promptly pay to the employer the total amounts paid by the employer under (e)(1)(A), (B), and (C) of this section, insofar as the recovery is sufficient after deducting all litigation costs and expenses. Any excess recovery by the employee or representative shall be credited against any amount payable by the employer thereafter.

(h) If compromise with a third person is made by the person entitled to benefits [COMPENSATION] or his representative of an amount less than the benefits [COMPENSATION] to which the person or representative would be entitled, the employer is liable for benefits [COMPENSATION] stated in (f) of this section only if the compromise is made with his written approval.

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(i) If the employer is insured and the carrier has assumed the payment of benefits [COMPENSATION] the carrier shall be subrogated to all the rights of the employer.

(j) Notice of the commencement of an action against a third party shall be given to the board and to all interested parties within 30 days.

② * Sec. 11. AS 23.30.020 is amended to read:

Sec. 23.30.020. CHAPTER PART OF CONTRACT OF HIRE. This chapter constitutes part of every contract of hire, express or implied, and every contract of hire shall be construed as an agreement on the part of the employer to pay and on the part of the employee to accept benefits [COMPENSATION] in the manner provided in this chapter for all personal injuries sustained.

② * Sec. 12. AS 23.30.025(b) is amended to read:

(b) All policies of insurance companies insuring the payment of benefits [COMPENSATION] under this chapter are conclusively presumed to cover all the employees and the entire benefits [COMPENSATION] liability of the insured employer employed at or in connection with the business of the employer carried on, maintained, or operated at the location or locations set out [FORTH] in that [SUCH] policy or agreement. A provision in a policy attempting to limit or modify the liability of the company issuing it is wholly void except as provided in (c) of this section.

— Sec 2 Page 1

① * Sec. 13. AS 23.30.025 is amended by adding a new subsection to read:

(c) An insurer may issue a policy of insurance insuring the payment of benefits under this chapter which provides for a deductible amount to be paid by the employer. A policy with a deductible provision

must be approved by the director of insurance and must provide that the

deductible amount be paid by the insurer to the employee on behalf of the employer. After payment of the deductible by the insurer, the insurer may recover the deductible amount from the employer. The failure of an employer to reimburse an insurer for the deductible amount does not relieve the insurer from any other obligation it may have under the policy of insurance. An insurer is not required to apply for a deviation under AS 21.39.070 in order to issue a policy under this subsection. This subsection does not apply to a policy of excess insurance purchased by a self-insurer.

② * Sec. 14. AS 23.30.030 is amended to read:

Sec. 23.30.030. REQUIRED POLICY PROVISIONS. A policy of a company insuring the payment of benefits [COMPENSATION] under this chapter is considered to contain the provisions set out in (1) - (7) of this section.

(1) The insurer assumes in full all the obligations to pay physician's fees, nurse's charges, hospital services, hospital supplies, medicine, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, and compensation or death benefits imposed upon the insured under the provisions of this chapter.

(2) The policy is made subject to the provisions of this chapter and its provisions relative to the liability of the insured employer to pay physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, compensation or death benefits to and for [SAID] employees or beneficiaries, the acceptance of the liability by the insured employer, the adjustment, trial and adjudication of claims for the physician's fees, nurse's charges, hospital services, hospital

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supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, compensation or death benefits and the liability of the insurer to pay the same are considered a part of this policy contract.

(3) As between the insurer and the employee or his beneficiaries, notice to or knowledge of the occurrence of the injury on the part of the insured employer is notice or knowledge on the part of the insurer; jurisdiction of the insured employer for the purpose of this chapter is jurisdiction of the insurer; and the insurer, in all things, is bound by and subject to the orders, awards, judgments and decrees made against the insured employer under this chapter.

(4) The insurer will promptly pay to the person entitled to them the benefits conferred by this chapter, including physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, and all installments of compensation or death benefits awarded or agreed upon under this chapter. The obligation of the insurer is not affected by a default of the insured employer after the injury, or by default in giving a notice required by this policy. The policy is a direct promise by the insurer to the person entitled to physician's fees, nurse's charges, fees for hospital services, charges for medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, and hospital supplies, charges for burial, compensation or death benefits, and is enforceable in the name of that person. The insurer shall provide claims facilities through its own staffed adjusting facilities located within the state, or by independent, licensed, resident adjusters with power to effect settlement within the state.

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(5) A termination of the policy by cancellation is not effective as to the employees of the insured employer covered by it until 20 days after written notice of the termination has been received by the board. If the employer has a contract with the state or a home rule or other political subdivision of the state, and his policy is cancelled due to nonpayment of a premium, the termination of the policy is not effective as to the employees of the insured employer covered by it until 20 days after written notice of the termination has been received by the contracting agency, and the agency has the option of continuing the payments on behalf of the employer in order to keep the policy in force. If, however, the employer has secured insurance with another insurance carrier, cancellation is effective as of the date of the new coverage.

(6) All claims for compensation, death benefits, physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, and burial expenses, may be made directly against either the employer or the insurer, or both, and the order or award of the board may be made against either the employer or the insurer or both.

(7) If the insurer fails or refuses to pay a final award or judgment (except during the pendency of an appeal) made against it, or its insured, or if it fails or refuses to comply with a provision of this chapter, the director of insurance [COMMISSIONER] shall revoke the approval of the policy form, and may not accept further proofs of insurance from it until it has paid the award or judgment or has complied with the violated provision of this chapter, and has resubmitted its policy form and received the approval of the form by the insurance commissioner.

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② * Sec. 15. AS 23.30.045(a) is amended to read:

Sec. 23.30.045. EMPLOYER'S LIABILITY FOR BENEFITS [COMPENSATION].

(a) An employer is liable for and shall secure the payment to his employees of the benefits [COMPENSATION] payable under AS 23.30.050, 23.30.095, 23.30.145, and 23.30.185 - 23.30.215. If the employer is a subcontractor, the contractor is liable for and shall secure the payment of the benefits [COMPENSATION] to employees of the subcontractor unless the subcontractor secures the payment.

② * Sec. 16. AS 23.30.045(b) is amended to read:

(b) Benefits are [COMPENSATION IS] payable irrespective of fault as a cause for the injury.

① * Sec. 17. AS 23.30.045(c) is amended to read:

(c) For a person eligible for vocational rehabilitation service under this chapter ^{③ or} AS 23.15.080 [AND] who is placed with an employer for service [WITHOUT WAGES] at the request of the board or the division [OFFICE] of vocational rehabilitation to give him on the job training, work readiness, [OR] work therapy experience [,] or work sampling, the liability set out in (a) of this section applies to the state rather than to the employer.

② * Sec. 18. AS 23.30.045(d) is amended to read:

(d) No contract may be awarded by the state or a home rule or other political subdivision of the state to an employer unless the employer [PERSON] to whom the contract is to be awarded has submitted to the contracting agency proof, furnished by the insurance carrier, of current coverage by workers' compensation insurance from an insurance company or association authorized to transact the business of workers' compensation insurance in this state or proof, furnished by the director of insurance [BOARD], of a current certificate of self-insurance from the director of insurance [BOARD]. The employer [PERSON] to whom

the contract is awarded shall keep his workers' compensation insurance policy in effect during the life of the contract with the state or political subdivision. If the state or the political subdivision of the state fails to obtain proof of coverage or self-insurance or to protect itself under (e) of this section, and an employee of the contractor is injured during the term of the contract, the state or the political subdivision is liable for workers' compensation to the employee if the employee is unable to recover from the employer because of the employer's lack of financial assets. The state or the political subdivision is not liable, however, to the employee for workers' compensation if the employee can recover from the employer under (a) and (b) of this section.

② * Sec. 19. AS 23.30.045(e) is amended to read:

(e) When a contracting agency of the state or a political subdivision receives notice that the workers' compensation insurance policy of an employer to whom the agency has awarded a contract has been cancelled due to nonpayment of a premium, without being replaced by a comparable policy, the agency may either terminate the contract with the employer or continue the premium payments on his behalf in order to keep the policy in force during the life of the agency's contract. If the agency chooses to keep the policy in force, it may deduct its payments from the contract price or bring an action against the employer to recover the amount of the payments. When the contracting agency receives notice that the director of insurance [BOARD] has revoked a certificate of self-insurance held by a person to whom a contract has been awarded, the agency may terminate the contract. This subsection does not limit the causes of action or remedies which the state or political subdivision may have against the employer.

② * Sec. 20. AS 23.30.055 is amended to read:

Sec. 23.30.055. EXCLUSIVENESS OF LIABILITY. The liability of an employer prescribed in AS 23.30.045 is exclusive and in place of all other liability of the employer and any fellow employee to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from the employer or fellow employee at law or in admiralty on account of the injury or death. However, if an employer fails to secure payment of benefits [COMPENSATION] as required by this chapter, an injured employee or his legal representative in case death results from the injury may elect to claim benefits [COMPENSATION] under this chapter, or to maintain an action against the employer at law or in admiralty for damages on account of the injury or death. In that action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, or that the employee assumed the risk of his employment, or that the injury was due to the contributory negligence of the employee.

② * Sec. 21. AS 23.30.060 is amended to read:

Sec. 23.30.060. ELECTION OF DIRECT PAYMENT PRESUMED. (a) An employer is conclusively presumed to have elected to pay benefits [COMPENSATION] directly to employees for injuries sustained arising out of and in the course of the employment according to the provisions of this chapter, until notice in writing of insurance, stating the name and address of the insurance company and the period of insurance, is given to the employee.

(b) The notice shall be posted and kept on the premises of the employer or on the premises where the employer's operations are being carried on in three conspicuous places, at the office of the employer, at the mess house or boarding house if there is one, and in some conspicuous place on the premises or works. The notice shall be sub-

stantially in the following form, and the signature shall be witnessed by two witnesses:

EMPLOYER'S NOTICE OF INSURANCE

To the employees of the undersigned:

You and each of you are hereby notified that the undersigned is insured in the.....Insurance Company, whose address is.....and that the period covered by the insurance.....in accordance with the terms, conditions and provisions to pay benefits [COMPENSATION] to employees of the undersigned for injuries received as provided in the Act of the State of Alaska, known as the "Alaska Workers' Compensation Act"

Signed.....
.....

Witness:
.....

② * Sec. 22. AS 23.30.070(e) is amended to read:

(e) If the employer or the carrier has been given notice, or the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier has knowledge of an injury or death of an employee and fails, neglects, or refuses to file a report of it as required by the provisions of (a) of this section, the limitations in AS 23.30.105(a) do not begin to run against the claim of the injured employee or his dependents entitled to benefits [COMPENSATION,] or in favor of either the employer or the carrier, until the report has been furnished as required by the provisions of (a) of this section.

② * Sec. 23. AS 23.30.070(f) is amended to read:

(f) An employer who fails or refuses to send a report required of him by this section or who fails or refuses to send the report required

by (a) of this section within the time required shall, if so required by the board, pay the employee or his legal representative or other person entitled to benefits [COMPENSATION] by reason of the employee's injury or death an additional award equal to 20 percent of the compensation [AMOUNTS] which was [WERE] unpaid when due. The award shall be against either the employer or his insurance carrier, or both.

② * Sec. 24. AS 23.30.075(a) is amended to read:

(a) An employer under this chapter, unless exempted, shall either [,] insure and keep insured for his liability under this chapter in an insurance company or association duly authorized to transact the business of workers' compensation insurance in this state, or shall furnish the director of insurance [BOARD] satisfactory proof of his financial ability to pay directly the benefits [COMPENSATION] provided for. If an employer elects to pay directly, the director of insurance [BOARD] may, in his [ITS] discretion, require

(1) the deposit of an acceptable security, indemnity or bond to secure the payment of benefit [COMPENSATION] liabilities as they are incurred; and

(2) proof of excess insurance.

② * Sec. 25. AS 23.30.075(b) is amended to read:

(b) An employer who fails to insure and keep insured employees subject to this chapter or fails to obtain a certificate of self-insurance from the board, upon conviction, is punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both. If an employer is a corporation, all persons who, at the time of the injury or death, had authority to insure the [SAID] corporation or apply for a certificate of self-insurance, and the person actively in charge of the business of the [SUCH] corporation shall be subject to the penalties prescribed in this subsection [HEREIN] and shall be

personally, jointly, and severally liable together with the corporation for the payment of all [COMPENSATION OR OTHER] benefits for which the corporation is liable under this chapter if the [SAID] corporation at the [SUCH] time is not insured or qualified as a self-insurer.

→ Sec 4 P2

* Sec. 26. AS 23.30.080 is amended by adding a new subsection to read:

(d) If an employer fails to insure or provide security as required by AS 23.30.075, the board may issue a stop order prohibiting the use of employee labor by the employer until the employer insures or provides security as required by AS 23.30.075. If an employer fails to comply with a stop order issued under this section, the board shall assess a civil penalty of at least \$1,000 per day. The employer may not obtain a public contract with the state or any of its political subdivisions for one year following the violation of the stop order.

* Sec. 27. AS 23.30.085(a) is amended to read:

(a) An employer subject to this chapter, unless exempted, shall initially file evidence of his compliance with the insurance provisions of this chapter with the board, in the form prescribed by it. The employer shall also give evidence of compliance within 10 days after the termination of his insurance by expiration or cancellation. These requirements do not apply to an employer who has certification from the director of insurance [BOARD] of his financial ability to pay benefits [COMPENSATION] directly without insurance.

* Sec. 28.. AS 23.30.090 is amended to read:

Sec. 23.30.090. SELF-INSURANCE CERTIFICATES. If an employer has complied with the provisions of this chapter relating to self-insurance, the director of insurance [BOARD] shall issue him a certificate which shall remain in force for a period fixed by the director of insurance [BOARD]. The director of insurance [BOARD] may, upon at least 10 days' notice and a hearing, revoke a self-insurance certificate upon satis-

factory proof that an employer is no longer entitled to it. After revocation the director of insurance [BOARD] may grant a new certificate to an employer, upon his petition and satisfactory proof of his financial ability as provided in this chapter. The director of insurance shall notify the contracting agency of the state or of a political subdivision of the state when it revokes the self-insurance certificate of an employer holding a contract with the state or a political subdivision of the state. An employer authorized as a self-insurer shall provide claims facilities through its own staffed adjusting facilities located within the state, or independent, licensed, resident adjustors with power to effect settlement within the state.

② * Sec. 29. AS 23.30.092 is amended to read:

Sec. 23.30.092. VOLUNTEER AMBULANCE ATTENDANTS, POLICEMEN AND FIREMEN INSURANCE. A political subdivision may elect to provide benefits [AND COMPENSATION] to its volunteer ambulance attendants, policemen or firemen by obtaining insurance which would provide its volunteer ambulance attendants, policemen or firemen with benefits [AND COMPENSATION] at least equivalent to those conferred upon volunteer ambulance attendants, policemen or firemen by this chapter, and the election shall be considered compliance with the coverage and insurance provisions of this chapter. The election shall be made by filing copies of the insurance policy or policies with the commissioner.

① * Sec. 30. AS 23.30.095(a) ^{→ Sec 5 P 2+3} is amended to read:

(a) The employer shall furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires [, NOT EXCEEDING TWO YEARS FROM AND AFTER THE DATE OF INJURY TO THE EMPLOYEE. HOWEVER, IF THE CONDITION REQUIRING THE TREATMENT, APPARATUS, OR MEDICINE IS A LATENT ONE, THE TWO-YEAR

PERIOD RUNS FROM THE TIME THE EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF HIS DISABILITY AND ITS RELATIONSHIP TO HIS EMPLOYMENT AND AFTER-DISABLEMENT. IT SHALL BE ADDITIONALLY PROVIDED THAT, IF CONTINUED TREATMENT OR CARE OR BOTH BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED EMPLOYEE HAS THE RIGHT OF REVIEW BY THE BOARD. THE BOARD MAY AUTHORIZE CONTINUED TREATMENT OR CARE OR BOTH AS THE PROCESS OF RECOVERY MAY REQUIRE]. When medical care is required, the injured employee may designate a ³ ~~physician~~ physician inside the state to render the care except in cases where, in the judgment of the board, care or treatment or both can best be administered by the selection of another ² ~~licensed~~ licensed physician. Upon procuring the services of a ³ ~~licensed~~ licensed physician, the injured employee shall give proper notification of his selection to the employer within a reasonable time after first being treated. [IF FOR ANY REASON DURING THE PERIOD WHEN MEDICAL CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO ANOTHER PHYSICIAN, HE MAY DO SO IN ACCORDANCE WITH RULES PRESCRIBED BY THE BOARD.]

SEC 7 P 3+4

* Sec. 31. AS 23.30.095(c) is amended to read:

① (c) No claim for medical or surgical treatment is valid and enforceable as against the employer unless, within 20 [TWENTY] days following each visit for [THE FIRST] treatment, the physician giving the treatment or the employee receiving it furnishes to the employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall [MAY], however, excuse the failure to furnish notice within 20 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical or surgical treatment so obtained by the employee.

① SEC 8 P 4

* Sec. 32. AS 23.30.095(e) is amended to read:

(e) The employee shall, after an injury, at reasonable times

during the continuance of his disability if requested by his employer or, when ordered by the board, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of the state in which the employee may be found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR EXAMINATIONS.] No fact relative to the injury or claim communicated to or otherwise learned by a physician or surgeon who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the benefits [COMPENSATION] provisions of this chapter. If an employee refuses to submit himself to any examination provided for in this section [HEREIN], his rights to compensation shall be suspended until the obstruction or refusal ceases, and his compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter [HEREUNDER], be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

② * Sec. 33. AS 23.30.100(a) is amended to read:

Sec. 23.30.100. NOTICE OF INJURY OR DEATH. (a) Notice of an injury or death in respect to which benefits are [COMPENSATION IS]

payable under this chapter shall be given within 30 days after the date of the [SUCH] injury or death to the board and to the employer.

② * Sec. 34. AS 23.30.100(b) is amended to read:

(b) The notice shall be in writing, contain the name and address of the employee and a statement of the time, place, nature, and cause of the injury or death, and be signed by the employee or by a person on his behalf, or in case of death, by a person claiming to be entitled to benefits [COMPENSATION] for the death or by a person on his behalf.

② * Sec. 35. AS 23.30.100(d) is amended to read:

(d) Failure to give notice does not bar a claim under this chapter

(1) if the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier had knowledge of the injury or death and the board determines that the employer or carrier has not been prejudiced by failure to give notice;

(2) if the board excuses the failure on the ground that for some satisfactory reason notice could not be given;

(3) unless objection to the failure is raised before the board at the first hearing of a claim for benefits [COMPENSATION] in respect to the injury or death.

Sec 9 FS
* Sec. 36. AS 23.30.105 is amended to read:

① Sec. 23.30.105. TIME FOR FILING OF CLAIMS. ① (a) The right to benefits [COMPENSATION FOR DISABILITY] under this chapter is barred unless a claim for them [IT] is filed within two years after the employee has knowledge of the nature of his disability and its relation to his employment and after disablement. The [HOWEVER, THE MAXIMUM TIME FOR FILING THE CLAIM IN ANY EVENT OTHER THAN ARISING OUT OF AN OCCUPATIONAL DISEASE SHALL BE FOUR YEARS FROM THE DATE OF INJURY, AND THE] right to benefits [COMPENSATION] for death is barred unless a

claim for benefits [THEREFORE] is filed within one year after the death. If [, EXCEPT THAT IF] payment of benefits [COMPENSATION] has been made without an award on account of the injury or death, a claim may be filed within one year [TWO YEARS] after the date of the last payment. It is additionally provided that, in the case of a latent injury [DEFECTS PERTINENT TO AND CAUSING COMPENSABLE DISABILITY], the injured employee has full right to claim as shall be determined by the board, time limitations notwithstanding.

② (b) Failure to file a claim within the period prescribed in (a) of this section is not a bar to benefits [COMPENSATION] unless objection to the failure is made at the first hearing of the claim in which all parties in interest are given reasonable notice and opportunity to be heard.

② (c) If a person who is entitled to benefits [COMPENSATION] under this chapter is mentally incompetent or a minor, the provisions of (a) of this section are not applicable so long as he has no guardian or other authorized representative, but are applicable in the case of a person who is mentally incompetent or a minor from the date of appointment of guardian or other representative, or in the case of a minor, if no guardian is appointed before he becomes of age, from the date he becomes of age.

② (d) If recovery is denied to a person, in a suit brought at law or in admiralty to recover damages in respect to injury or death, on the ground that he was an employee and that the defendant is an employer within the meaning of this chapter and that the employer has secured benefits [COMPENSATION] to the employee under this chapter, the limitation of time prescribed in (a) of this section begins to run only from the date of termination of the suit.

* Sec. 37. AS 23.30.106(b) is amended to read:

(b) The payment or award of benefits under the workers' compensation law of another state, territory, province, or foreign nation to an employee or his dependents otherwise entitled on account of the injury or death to the benefits under this chapter is not a bar to a claim for benefits under this chapter; however, a claim under this chapter must be filed within the time limits set out in this chapter. If benefits are [COMPENSATION IS] paid or awarded under this section:

(1) the medical and related benefits furnished or paid for by the employer under another workers' compensation law on account of the injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this chapter had claim been made solely under this chapter;

(2) the amount of all income benefits paid or awarded the employee under another workers' compensation law shall be credited against the total amount of income benefits which would have been due the employee under this chapter had claim been made solely under this chapter;

(3) the total amount of death benefits paid or awarded under another workers' compensation law shall be credited against the total amount of death benefits due under this chapter.

② * Sec. 38. AS 23.30.106(c) is amended to read:

(c) If an employee is entitled to the benefits of this chapter by reason of an injury sustained in this state in employment by an employer who is domiciled in another state and who has not secured the payment of benefits [COMPENSATION] as required by this chapter, the employer or his carrier may file with the board a certificate, issued by the commission or agency of the other state having jurisdiction over workers' compensation claims, certifying that the employer has secured the payment of benefits [COMPENSATION] under the workers' compensation law

(2)

of the other state and that with respect to that injury the employee is entitled to the benefits provided under that law. In that event

(1) the filing of the certificate shall constitute an appointment by the employer or his carrier of the board as his agent for acceptance of the service of process in a proceeding brought by the employee or his dependents to enforce his or their rights under this chapter on account of the injury;

(2) the board shall send to the employer or carrier, by registered or certified mail to the address shown on the certificate, a true copy of any notice of claim or other process served on the director by the employee or his dependents in any proceeding brought to enforce his or their rights under this chapter;

(3) if the employer is a qualified self-insurer under the workers' compensation law of the other state, the employer, upon submission of evidence satisfactory to the board of his ability to meet his liability to the employee under this chapter, shall be considered to be a qualified self-insurer under this chapter;

(4) if the employer's liability under the workers' compensation law of another state is insured, the employer's carrier, as to the employee or his dependents only, shall be considered to be an insurer authorized to write insurance under and be subject to this chapter; however, unless its contract with the employer requires it to pay an amount equivalent to the [COMPENSATION] benefits provided by this chapter, its liability for income benefits or medical and related benefits may not exceed the amounts of the benefits for which the insurer would have been liable under the workers' compensation law of the other state;

(5) if the amount for which the employer's insurance is liable under (3) and (4) of this subsection is less than the total [OF

(2)

THE COMPENSATION] benefits to which the employee is entitled under this chapter, the board may, if it considers it necessary, require the employer to file security satisfactory to the board to secure the payment of benefits due the employee or his dependents under this chapter; and

(6) upon compliance with the preceding requirements of (c) of this section, the employer, as to the employee only, shall be considered to have secured the payment of benefits [COMPENSATION] under this chapter.

② * Sec. 39. AS 23.30.110(a) is amended to read:

(a) Subject to the provisions of AS 23.30.105, a claim for benefits [COMPENSATION] may be filed with the board in accordance with its regulations at any time after the first seven days of disability following an injury, or at any time after death, and the board may hear and determine all questions in respect to the claim.

① * Sec. 40. ^{Sec 10 P5+6} AS 23.30.110(c) is amended to read:

(c) The board shall make the investigation which it considers necessary in respect of the claim, and upon application of an interested party shall order a hearing on it. If a hearing on a claim is ordered, the board shall give the claimant and other interested parties at least 10 days' notice of the hearing, served personally upon the claimant and other interested parties or sent by registered mail, and shall, within 30 [20] days after the hearing is held [HAD], by order, reject the claim or make an award in respect to it. [IF NO HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN RESPECT TO IT.]

② * Sec. 41. AS 23.30.120 is amended to read:

Sec. 23.30.120. PRESUMPTIONS. In a proceeding for the enforce-

ment of a claim for benefits [COMPENSATION] under this chapter it is presumed, in the absence of substantial evidence to the contrary, that :

(1) the claim comes within the provisions of this chapter;

(2) sufficient notice of the claim has been given;

(3) the injury was not occasioned solely by the intoxication of the injured employee;

(4) the injury was not occasioned by the wilful intention of the injured employee to injure or kill himself or another.

②* Sec. 42. AS 23.30.130 is amended to read:

Sec. 23.30.130. MODIFICATION OF AWARDS. (a) Upon its own initiative, or upon the application of any party in interest on the ground of a change in conditions, including, for the purposes of AS 23.30.175, a change in residence, or because of a mistake in its determination of a fact, the board may, before one year after the date of the last payment of benefits [COMPENSATION,] whether or not a compensation order has been issued, or before one year after the rejection of a claim, review a compensation case in accordance with the procedure prescribed in respect of claims in AS 23.30.110. In accordance with AS 23.30.110 the board may issue a new compensation order which terminates, continues, reinstates, increases, or decreases the compensation, or award benefits [COMPENSATION].

(b) A new order does not affect benefits [COMPENSATION] previously paid, except that an award increasing the compensation rate may be made effective from the date of the injury, and if part of the compensation due or to become due is unpaid, an award decreasing the compensation rate may be made effective from the date of the injury, and payment made earlier in excess of the decreased rate shall be deducted from the unpaid compensation, in the manner the board determines.

②* Sec. 43. AS 23.30.140 is amended to read:

Sec. 23.30.140. APPOINTMENT OF GUARDIAN BY COURT. The board may require the appointment of a guardian or other representative by a competent court for any person who is mentally incompetent or a minor to receive benefits [COMPENSATION] payable to the person under this chapter and to exercise the powers granted to or to perform the duties required of the person under this chapter. If the board does not require the appointment of a guardian to receive the compensation of a minor, appointment for this purpose is not necessary.

② * Sec. 44. AS 23.30.145 is amended to read:

Sec. 23.30.145. ATTORNEY FEES. (a) Fees for legal services rendered in respect to a claim are not valid unless approved by the board, and the fees may not be less than 25 percent on the first \$1,000 of benefits [COMPENSATION] or part of the first \$1,000 of benefits [COMPENSATION] and 10 percent of all sums in excess of \$1,000 of benefits [COMPENSATION]. When the board advises that a claim has been controverted, in whole or in part, the board may direct that the fees for legal services be paid by the employer or carrier in addition to benefits [COMPENSATION] awarded; the fees may be allowed only on the amount of benefits [COMPENSATION] controverted and awarded. When the board advises that a claim has not been controverted, but further advises that bona fide legal services have been rendered in respect to the claim, then the board shall direct the payment of the fees out of the benefits [COMPENSATION] awarded. In determining the amount of fees the board shall take into consideration the nature, length and complexity of the services performed, transportation charges, and the benefits resulting from the services to the compensation beneficiaries.

(b) If an employer fails to file timely notice of controversy or fails to pay [COMPENSATION OR MEDICAL AND RELATED] benefits within 15 days after it becomes due or otherwise resists the payment of [COMPEN-

SATION OR MEDICAL AND RELATED] benefits and if the claimant has employed an attorney in the successful prosecution of his claim, the board shall make an award to reimburse the claimant for his costs in the proceedings, including a reasonable attorney fee. The award is in addition to the [COMPENSATION OR MEDICAL AND RELATED] benefits ordered.

(c) If proceedings are had for review of an [A COMPENSATION OR MEDICAL AND RELATED BENEFITS] order before a court, the court may allow or increase an attorney's fees. The fees are in addition to [COMPENSATION OR MEDICAL AND RELATED] benefits ordered and shall be paid as the court may direct.

Sec 11 P6

① * Sec. 45. AS 23.30.155(j) is amended to read:

(j) If an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed, after approval by the board, out of any unpaid installment or installments of compensation due.

Sec 12 P6

② * Sec. 46. AS 23.30.155 is amended by adding new subsections to read:

(n) Compensation owed to an injured employee in the state shall be paid by a check or draft that may be cashed on the first banking day after it is received by the employee and on any succeeding banking day.

(o) Whenever the board determines that it is in the interest of an injured employee and that a substantial hardship will not be imposed on the employer, the liability of the employer for all or part of compensation payable under AS 23.30.190 may be discharged by the payment of a lump sum.

② * Sec. 47. AS 23.30 is amended by adding new sections to read:

Sec. 23.30.157. AVAILABILITY FOR EMPLOYMENT. (a) An injured employee who receives compensation or medical and related benefits under this chapter and who is not employed shall register with the employment service operated by the state and shall report to job inter-

views and referrals arranged by the employment service.

(b) An employee described in (a) of this section who is unemployed and has received 10 or more job referrals within the preceding three years may not receive further benefits under this chapter unless the employee is determined to be permanently totally disabled in accordance with AS 23.30.180.

② Sec. 23.30.159. OTHER EARNINGS. (a) An injured employee who receives compensation or medical and related benefits shall report monthly any wages earned during the preceding month

(1) to the board; or

(2) if the employer elects to pay benefits directly, to the director of insurance.

(b) An employee who fails to report wages as required under (a) of this section may not receive benefits under this chapter until those reports are made.

② * Sec. 48. AS 23.30.160 is amended to read:

Sec. 23.30.160. ASSIGNMENT AND EXEMPTION FROM CLAIMS OF CREDITORS. No assignment, release, or commutation of [COMPENSATION OR] benefits due or payable under this chapter, except as provided by this chapter, is valid, and the [COMPENSATION AND] benefits are exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt. This exemption may not be waived.

② * Sec. 49. AS 23.30.165 is amended to read:

Sec. 23.30.165. LIEN. (a) Each employee and beneficiary entitled to benefits [COMPENSATION] under the provisions of this chapter has a lien for the full amount of his benefits [COMPENSATION], including costs and disbursements of suit and attorney fees allowed, upon all of the property in connection with the construction, preservation, mainte-

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nance or operation of which the work of the employee was being performed at the time of his injury or death. For example: in the case of an employee injured or killed while engaged in mining or in work connected with mining, the lien extends to the entire mine and all property used in connection with it; and in the case of an employee injured or killed while engaged in fishing or in the packing, canning, or salting of fish, or other branch of the fish industry, the lien extends to the entire packing, fishing, salting or canning plant or establishment and all property used in connection with it; and this is the case with other businesses, industries, works, occupations and employments.

(b) The lien is prior and paramount to any other lien on the property, except a lien for wages or materials as provided by law, and is of equal rank with a lien for wages or materials.

(c) The lien extends to all right, title, interest and claim of the employer in the property affected by the lien.

(d) A person claiming a lien under this chapter shall, within one year after the date of the injury from which the claim of benefits [COMPENSATION] arises, file for record in the office of the recorder of the recording district in which the property affected by the lien is located a notice of lien signed and verified by the claimant or someone on his behalf, and stating in substance, the name of the person injured or killed out of which injury or death the claim of benefits [COMPENSATION] arises, the name of the employer of the injured or deceased person at the time of the injury or death, a description of the property affected or covered by the lien and the name of the owner or reputed owner of the property.

(e) The lien for benefits [COMPENSATION] provided for in this section may be enforced by equitable proceedings as in the enforcement

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of other liens upon real or personal property, within 10 months after the cause of action arises. Nothing in this section prevents an attachment of property as security for the payment of benefits [COMPENSATION].

② * Sec. 50. AS 23.30.170(a) is amended to read:

(a) In case of default by the employer in the payment of benefits [COMPENSATION] due under an award of benefits [COMPENSATION] for a period of 30 days after the benefits are [COMPENSATION IS] due, the person to whom the benefits are [COMPENSATION IS] payable may, within one year after the default, apply to the board making the compensation order for a supplementary order declaring the amount of the default. After investigation, notice, and hearing, as provided in AS 23.30.110, the board shall make a supplementary order declaring the amount of the default. The order shall be filed in the same manner as the compensa-

tion order.

Sec 13 P6

* Sec. 51. AS 23.30.175(b) is repealed and reenacted to read:

(b) After June 30 and before December 1 of each year, the commissioner shall adopt and publish the average weekly wage for the preceding calendar year as computed by the United States Secretary of Labor for the purposes of unemployment insurance. In determining the rate of compensation the commissioner shall use the average weekly wage figure for each jurisdiction, including Alaska, for which the Secretary of Labor computes an average weekly wage. These figures are the applicable average weekly wages for those jurisdictions for the following calendar year. The average weekly wage for Alaska is the amount determined by dividing (1) the total wages paid by all employers covered by the Alaska Employment Security Act by (2) the average monthly employment reported by those employers for the same period and dividing the

result by 52.

Sec 14 P7

① * Sec. 52. AS 23.30.175(c) is repealed and reenacted to read:

(c) The following rules apply to recipients who do not reside in Alaska:

(1) The weekly rate of compensation shall be calculated using the recipient's average weekly wage times the ratio of the average weekly wage of the jurisdiction in which the recipient resides to the average weekly wage of Alaska. The rate is based on the average weekly wages in effect when the recipient leaves Alaska and shall be adjusted annually upon publication of the average weekly wages for all jurisdictions.

(2) The calculation required by this subsection does not apply if

(A) the average weekly wage of the recipient and the resulting compensation rate is determined under AS 23.30.220(2) by use of wages earned in jurisdictions other than Alaska; or

(B) the absence of the recipient is for medical or rehabilitation services not reasonably available in Alaska.

(3) Application of this subsection may not result in a reduction of the weekly compensation rate to less than \$65 a week except as provided in (a) of this section.

^{Sec 15 P 7}
* Sec. 53. AS 23.30.175(d) is repealed and reenacted to read:

(d) In a jurisdiction for which no average weekly wage is computed by the United States Secretary of Labor for the purposes of unemployment insurance, the average weekly wage shall be as determined by the commissioner.

* Sec. 54. AS 23.30.180 is amended to read:

Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total disability adjudged to be permanent 66-2/3 percent of the injured employee's average weekly wages shall be paid to the employee during the continuance of the total disability. Permanent [LOSS OF BOTH

HANDS, OR BOTH ARMS, OR BOTH FEET, OR BOTH LEGS, OR BOTH EYES, OR OF ANY TWO OF THEM, IN THE ABSENCE OF CONCLUSIVE PROOF TO THE CONTRARY, CONSTITUTES PERMANENT TOTAL DISABILITY. IN ALL OTHER CASES PERMANENT] total disability is determined in accordance with the facts.

^{Sec 16 P7,8}
* Sec. 55. AS 23.30.190 is amended to read:

② Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL DISABILITY.

(a) In case of disability partial in character but permanent in quality the compensation is 66-2/3 percent of the injured employee's average weekly wages in addition to compensation for temporary total disability or temporary partial disability paid in accordance with AS 23.30.185 or 23.30.200, respectively, and shall be paid to the employee as follows:

② (1) arm lost, 156 [280] weeks compensation, not to exceed \$43,680;

② (2) leg lost, 156 [248] weeks compensation, not to exceed \$40,320;

② (3) hand lost, 156 [212] weeks compensation, not to exceed \$33,600;

② (4) foot lost, 156 [173] weeks compensation, not to exceed \$28,700;

② (5) eye lost, 140 weeks compensation, not to exceed \$22,400;

② (6) thumb lost, 51 weeks compensation, not to exceed \$10,400;

② (7) first finger lost, 28 weeks compensation, not to exceed \$6,440;

② (8) great toe lost, 26 weeks compensation, not to exceed \$5,320;

② (9) second finger lost, 18 weeks compensation, not to exceed \$4,200; third finger lost, 18 weeks compensation, not to exceed \$3,500;

② (10) toe other than great toe lost, eight weeks compensation, not to exceed \$2,240;

② (11) fourth finger lost, seven weeks compensation, not to exceed \$2,100;

② (12) loss of hearing of one ear, 52 weeks compensation, not exceeding \$7,280; loss of hearing of both ears, 156 [200] weeks compensation, not to exceed \$28,000;

② (13) compensation for loss of more than one phalange of a digit shall be the same as for loss of the entire digit; compensation for loss of the first phalange is one-half of the compensation for loss of the entire digit;

② (14) amputation between the elbow and the wrist is considered equivalent to the loss of an arm, and amputation between the knee and ankle is considered equivalent to the loss of a leg;

② (15) compensation for loss of binocular vision or for 80 percent or more of the vision of an eye is the same as for loss of the eye;

② (16) compensation for loss of two or more digits, or one or more phalanges of two or more digits of a hand or foot may be proportioned to the resulting loss of use of the injured hand or foot, but may not exceed the compensation for loss of a hand or foot;

② (17) compensation for permanent total loss of use of a member is the same as for loss of the member;

② (18) compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member;

② (19) in addition to other allowable compensation, the board shall award proper and equitable compensation up to \$10,000 for

② (A) serious disfigurement of face, head and, when such disfigurement is likely to handicap the employee in securing or holding employment, for serious disfigurement of neck or limbs normally exposed, or

② (B) partial or total loss of or loss of use of a part or function of the body not otherwise provided for under this section;

① (20) in all other cases in this class of disability the compensation is 66-2/3 percent of the difference between his average weekly wages and his wage-earning capacity after the injury in the same employment or otherwise, payable during the continuance of the partial disability, but subject to reconsideration of the degree of the impairment by the board on its own motion or upon application of a party in interest; [WHENEVER THE BOARD DETERMINES THAT IT IS IN THE INTEREST OF JUSTICE, THE LIABILITY OF THE EMPLOYER FOR COMPENSATION, OR ANY PART OF IT AS DETERMINED BY THE BOARD, MAY BE DISCHARGED BY THE PAYMENT OF A LUMP SUM;]

② (21) in a case in which there is a loss of, or loss of use of more than one member or parts of more than one member set out in (1) - (18) of this subsection [SECTION], not amounting to permanent total disability, the award of compensation is for the loss of, or loss of use of, each member or part of the member, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, (16) of this subsection [SECTION] applies.

② (b) Total compensation paid under (a)(20) of this section may not continue for more than 156 weeks or exceed \$60,000.

① * Sec. 56. ^{Sec 17 PB} AS 23.30.191 is repealed and reenacted to read:

Sec. 23.30.191. EXPENSES FOR REHABILITATING INJURED EMPLOYEES.

An employee, who, as a result of injury, is or may be expected to be totally or partially incapacitated for his normal occupation and who, under the direction of the board, is being rehabilitated to engage in a remunerative occupation, may receive compensation necessary for his

rehabilitation of 66-2/3 percent of his average weekly wage subject to the maximum payable under AS 23.30.175.

② * Sec. 57. AS 23.30.210(b) is amended to read:

(b) At any time after death, or after 30 days subsequent to the date of injury, the employer and the employee or the beneficiary or beneficiaries, as the case may be, have the right to reach an agreement in regard to a claim for injury or death under this chapter [HEREUNDER] in accordance with the applicable schedule [HEREOF], but a memorandum of the agreement in a form prescribed by the board shall be filed with the board. Otherwise, the agreement is void for any purpose. If approved by the board, the agreement is enforceable the same as an order or award of the board and discharges the liability of the employer for the benefits [COMPENSATION] notwithstanding the provisions of [AS 23.30.130,] AS 23.30.160 [,] and AS 23.30.245(b) [AS 23.30.245]. The agreement shall be approved by the board only when the terms conform to the provisions of this chapter and, if it involves or is likely to involve permanent disability, the board may require an impartial medical examination and a hearing in order to determine whether or not to approve the agreement. The board may approve lump-sum settlements when it appears to be to the best interest of the employee or beneficiary or beneficiaries.

① * Sec. 58. ^{SEC 18 P 8} AS 23.30.215(a)(1) is amended to read:

(1) reasonable and necessary funeral expenses not exceeding \$2,500; the commissioner by regulation shall annually adjust this limit to reflect increased expenses resulting from inflation [\$1,000];

③ * ^{SEC 20 P 8} ~~Sec. 59. AS 23.30.220(2)~~ is amended to read:

(2) the average weekly wage is [THAT MOST FAVORABLE TO THE EMPLOYEE] calculated by dividing 52 into the total wages earned, including self-employment, in [ANY ONE OF] the [THREE] calendar year

[YEARS] immediately preceding the injury;

② * Sec. 60. AS 23.30 is amended by adding a new section to read:

Sec. 23.30.227. OTHER BENEFITS. (a) Notwithstanding any other provision of this chapter, an injured employee may not receive compensation for permanent total, permanent partial, temporary total, or temporary partial disability if he receives unemployment benefits (AS 23.20) for the same period of time.

(b) Notwithstanding any other provision of this chapter, an injured employee may not receive compensation for permanent total, permanent partial, temporary total, or temporary partial disability that exceeds 100 percent of his average weekly wage when added to any sick pay to which he is entitled for the same period of time.

(c) Notwithstanding any other provision of this chapter, the amount of compensation received by an injured employee for permanent total, permanent partial, temporary total, or temporary partial disability shall be reduced by the amount of retirement benefits paid to him for the same period of time.

② * Sec. 61. AS 23.30.225 is amended to read:

Sec. 23.30.225. CASES IN WHICH NO BENEFITS ARE [COMPENSATION IS] PAYABLE. No benefits [COMPENSATION] may be paid if the injury was occasioned solely by the intoxication of the employee or by the wilful intention of the employee to injure or kill himself or another.

② * Sec. 62. AS 23.30.245 is amended to read:

Sec. 23.30.245. INVALID AGREEMENTS. (a) An agreement by an employee to pay a portion of the premium paid by his employer to a carrier or to contribute to a benefit fund or department maintained by the employer for the purpose of providing benefits [COMPENSATION OR MEDICAL SERVICES AND SUPPLIES] as required by this chapter is not valid. An employer who makes a deduction for this purpose from the pay

200 - 18.80.280; [OR BECAUSE HE HAS]

(B) filed a complaint, testified or assisted in a proceeding under this chapter; or

(C) filed a claim for workers' compensation benefits under AS 23.30;

② AS 21.36.190(d) is amended to read:

(d) This section does not apply to workers' compensation insurance when issued to an association of employers in the same rating classification [FORMED FOR PURPOSES OTHER THAN THE PURCHASE OF INSURANCE] and which as a group

(1) has a constitution and bylaws;

(2) incorporates a safety program;

[(3) AS A GROUP HAS PREFERRED CHARACTERISTICS OVER SIMILAR RISKS WRITTEN ON AN INDIVIDUAL BASIS;] and

(4) has filed and received approval from the director for the rating program to be applied to the group.

② Sec. 6. AS 21.39.040(d) is amended to read:

(d) Subject to the exceptions [EXCEPTION] specified in (e) of this section and AS 21.39.045, each filing shall be on file for a waiting period of 15 days before it becomes effective, which period may be extended by the director for an additional period not to exceed 15 days if he gives written notice within the waiting period to the insurer or rating organization which made the filing stating that he needs additional time for the consideration of the filing. Upon written application by the insurer or rating organization, the director may authorize a filing which he has reviewed to become effective before the expiration of the waiting period. A filing shall be considered to meet the requirements of this chapter unless disapproved by the director within the waiting period.

② * Sec. 7. AS 21.39 is amended by adding a new section to read:

Sec. 21.39.045. WORKERS' COMPENSATION RATE FILINGS. (a) A filing of workers' compensation rates by a rating organization shall be limited to provisions for claim payment and may not include allowances for expenses, taxes, or profit, except as necessary for full rate development for an assigned risk pool under AS 21.39.155.

(b) If each rate in a schedule of workers' compensation rates for a specific classification of risks filed by an insurer is not lower than the rate for each respective classification filed by a rating organization in accordance with (a) of this section and approved by the director, the schedule of rates filed by the insurer is effective immediately and the waiting period in AS 21.39.040(d) is not required.

(c) Notwithstanding (b) of this section, the director may require an insurer to comply with the waiting period in AS 21.39.040(d) for a rate filing or part of a rate filing if he determines that the rate filing or part of the rate filing is excessive, inadequate, or unfairly discriminatory.

② * Sec. 8. AS 21.39.070 is amended by adding new subsections to read:

(c) Notwithstanding (a) of this section, a filing by an insurer of an independent deductible or loss reimbursement plan is not considered a deviation under this section.

(d) Notwithstanding (a) of this section, a filing of workers' compensation rates under AS 21.39.045(b) is not a deviation under this section.

② * Sec. 9. AS 23.30.010 is amended to read:

Sec. 23.30.010. COVERAGE. Benefits are [COMPENSATION IS] payable under this chapter in respect of disability or death of an employee.

② * Sec. 10. AS 23.30.015 is amended to read:

Sec. 23.30.015. BENEFITS [COMPENSATION] WHERE THIRD PERSONS ARE

(2)

LIABLE. (a) If on account of disability or death for which benefits [COMPENSATION IS] payable under this chapter the person entitled to the benefits [COMPENSATION] believes that a third person other than the employer or a fellow employee is liable for damages, he need not elect whether to receive benefits [COMPENSATION] or to recover damages from the third person.

(b) Acceptance of benefits [COMPENSATION] under an award in a compensation order filed by the board operates as an assignment to the employer of all rights of the person entitled to benefits [COMPENSATION] and the personal representative of a deceased employee to recover damages from the third person unless the person or representative entitled to benefits [COMPENSATION] commences an action against the third person within one year after an award.

(c) Payment of compensation into the second-injury fund as a result of death operates as an assignment to the employer of all rights of the representative of the deceased to recover damages from the third person.

(d) An employer under an assignment may either institute proceedings for the recovery of damages or may compromise with a third person, either without or after instituting an action.

(e) An amount recovered by the employer under an assignment, whether by action or compromise, shall be distributed as follows:

(1) The employer shall retain an amount equal to

(A) the expenses incurred by him in respect to the action or compromise, including a reasonable attorney fee determined by the board;

(B) the cost of all benefits actually furnished by him under this chapter;

(C) all amounts paid as compensation and second-injury

(2)

②
fund payments;

(D) the present value of all amounts payable later as compensation (present value to be computed from a schedule prepared by the board), and the present value of the cost of all benefits to be furnished later under AS 23.30.095 (as estimated by the board), the amounts so computed and estimated to be retained by the employer as a trust fund to pay compensation and cost of benefits as they become due and to pay any finally remaining excess sum to the person entitled to benefits [COMPENSATION] or to the representative; and

(2) the employer shall pay any excess to the person entitled to benefits [COMPENSATION] or to his representative.

(f) Even if an employee, his representative, or his employer brings an action or settles a claim against the third person, the employer shall pay the benefits [AND COMPENSATION] required by this chapter.

(g) If the employee or his representative recovers damages from the third person, the employee or representative shall promptly pay to the employer the total amounts paid by the employer under (e)(1)(A), (B), and (C) of this section, insofar as the recovery is sufficient after deducting all litigation costs and expenses. Any excess recovery by the employee or representative shall be credited against any amount payable by the employer thereafter.

(h) If compromise with a third person is made by the person entitled to benefits [COMPENSATION] or his representative of an amount less than the benefits [COMPENSATION] to which the person or representative would be entitled, the employer is liable for benefits [COMPENSATION] stated in (f) of this section only if the compromise is made with his written approval.

(i) If the employer is insured and the carrier has assumed the payment of benefits [COMPENSATION] the carrier shall be subrogated to all the rights of the employer.

(j) Notice of the commencement of an action against a third party shall be given to the board and to all interested parties within 30 days.

② ~~Sec. 11.~~ AS 23.30.020 is amended to read:

Sec. 23.30.020. CHAPTER PART OF CONTRACT OF HIRE. This chapter constitutes part of every contract of hire, express or implied, and every contract of hire shall be construed as an agreement on the part of the employer to pay and on the part of the employee to accept benefits [COMPENSATION] in the manner provided in this chapter for all personal injuries sustained.

② * ~~Sec. 12.~~ AS 23.30.025(b) is amended to read:

(b) All policies of insurance companies insuring the payment of benefits [COMPENSATION] under this chapter are conclusively presumed to cover all the employees and the entire benefits [COMPENSATION] liability of the insured employer employed at or in connection with the business of the employer carried on, maintained, or operated at the location or locations set out [FORTH] in that [SUCH] policy or agreement. A provision in a policy attempting to limit or modify the liability of the company issuing it is wholly void except as provided in (c) of this section.

② *Sec 2 Page 1*

① * Sec. 13. AS 23.30.025 is amended by adding a new subsection to read:

(c) An insurer may issue a policy of insurance insuring the payment of benefits under this chapter which provides for a deductible amount to be paid by the employer. A policy with a deductible provision must be approved by the director of insurance and must provide that the

deductible amount be paid by the insurer to the employee on behalf of the employer. After payment of the deductible by the insurer, the insurer may recover the deductible amount from the employer. The failure of an employer to reimburse an insurer for the deductible amount does not relieve the insurer from any other obligation it may have under the policy of insurance. An insurer is not required to apply for a deviation under AS 21.39.070 in order to issue a policy under this subsection. This subsection does not apply to a policy of excess insurance purchased by a self-insurer.

② * Sec. 14. AS 23.30.030 is amended to read:

Sec. 23.30.030. REQUIRED POLICY PROVISIONS. A policy of a company insuring the payment of benefits [COMPENSATION] under this chapter is considered to contain the provisions set out in (1) - (7) of this section.

(1) The insurer assumes in full all the obligations to pay physician's fees, nurse's charges, hospital services, hospital supplies, medicine, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, and compensation or death benefits imposed upon the insured under the provisions of this chapter.

(2) The policy is made subject to the provisions of this chapter and its provisions relative to the liability of the insured employer to pay physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, compensation or death benefits to and for [SAID] employees or beneficiaries, the acceptance of the liability by the insured employer, the adjustment, trial and adjudication of claims for the physician's fees, nurse's charges, hospital services, hospital

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supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, compensation or death benefits and the liability of the insurer to pay the same are considered a part of this policy contract.

(3) As between the insurer and the employee or his beneficiaries, notice to or knowledge of the occurrence of the injury on the part of the insured employer is notice or knowledge on the part of the insurer; jurisdiction of the insured employer for the purpose of this chapter is jurisdiction of the insurer; and the insurer, in all things, is bound by and subject to the orders, awards, judgments and decrees made against the insured employer under this chapter.

(4) The insurer will promptly pay to the person entitled to them the benefits conferred by this chapter, including physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, and all installments of compensation or death benefits awarded or agreed upon under this chapter. The obligation of the insurer is not affected by a default of the insured employer after the injury, or by default in giving a notice required by this policy. The policy is a direct promise by the insurer to the person entitled to physician's fees, nurse's charges, fees for hospital services, charges for medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, and hospital supplies, charges for burial, compensation or death benefits, and is enforceable in the name of that person. The insurer shall provide claims facilities through its own staffed adjusting facilities located within the state, or by independent, licensed, resident adjusters with power to effect settlement within the state.

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(5) A termination of the policy by cancellation is not effective as to the employees of the insured employer covered by it until 20 days after written notice of the termination has been received by the board. If the employer has a contract with the state or a home rule or other political subdivision of the state, and his policy is cancelled due to nonpayment of a premium, the termination of the policy is not effective as to the employees of the insured employer covered by it until 20 days after written notice of the termination has been received by the contracting agency, and the agency has the option of continuing the payments on behalf of the employer in order to keep the policy in force. If, however, the employer has secured insurance with another insurance carrier, cancellation is effective as of the date of the new coverage.

(6) All claims for compensation, death benefits, physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, and burial expenses, may be made directly against either the employer or the insurer, or both, and the order or award of the board may be made against either the employer or the insurer or both.

(7) If the insurer fails or refuses to pay a final award or judgment (except during the pendency of an appeal) made against it, or its insured, or if it fails or refuses to comply with a provision of this chapter, the director of insurance [COMMISSIONER] shall revoke the approval of the policy form, and may not accept further proofs of insurance from it until it has paid the award or judgment or has complied with the violated provision of this chapter, and has resubmitted its policy form and received the approval of the form by the insurance commissioner.

② -16-

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* Sec. 15. AS 23.30.045(a) is amended to read:

Sec. 23.30.045. EMPLOYER'S LIABILITY FOR BENEFITS [COMPENSATION].

(a) An employer is liable for and shall secure the payment to his employees of the benefits [COMPENSATION] payable under AS 23.30.050, 23.30.095, 23.30.145, and 23.30.185 - 23.30.215. If the employer is a subcontractor, the contractor is liable for and shall secure the payment of the benefits [COMPENSATION] to employees of the subcontractor unless the subcontractor secures the payment.

②
* Sec. 16. AS 23.30.045(b) is amended to read:

(b) Benefits are [COMPENSATION IS] payable irrespective of fault as a cause for the injury.

→ SEC 3 P 2

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* Sec. 17. AS 23.30.045(c) is amended to read:

(c) For a person eligible for vocational rehabilitation service under this chapter ^{③ or} and AS 23.15.080 [AND] who is placed with an employer for service [WITHOUT WAGES] at the request of the board or the division [OFFICE] of vocational rehabilitation to give him on the job training, work readiness, [OR] work therapy experience [,] or work sampling, the liability set out in (a) of this section applies to the state rather than to the employer.

②
* Sec. 18. AS 23.30.045(d) is amended to read:

(d) No contract may be awarded by the state or a home rule or other political subdivision of the state to an employer unless the employer [PERSON] to whom the contract is to be awarded has submitted to the contracting agency proof, furnished by the insurance carrier, of current coverage by workers' compensation insurance from an insurance company or association authorized to transact the business of workers' compensation insurance in this state or proof, furnished by the director of insurance [BOARD], of a current certificate of self-insurance from the director of insurance [BOARD]. The employer [PERSON] to whom

the contract is awarded shall keep his workers' compensation insurance policy in effect during the life of the contract with the state or political subdivision. If the state or the political subdivision of the state fails to obtain proof of coverage or self-insurance or to protect itself under (e) of this section, and an employee of the contractor is injured during the term of the contract, the state or the political subdivision is liable for workers' compensation to the employee if the employee is unable to recover from the employer because of the employer's lack of financial assets. The state or the political subdivision is not liable, however, to the employee for workers' compensation if the employee can recover from the employer under (a) and (b) of this section.

② * Sec. 19. AS 23.30.045(e) is amended to read:

(e) When a contracting agency of the state or a political subdivision receives notice that the workers' compensation insurance policy of an employer to whom the agency has awarded a contract has been cancelled due to nonpayment of a premium, without being replaced by a comparable policy, the agency may either terminate the contract with the employer or continue the premium payments on his behalf in order to keep the policy in force during the life of the agency's contract. If the agency chooses to keep the policy in force, it may deduct its payments from the contract price or bring an action against the employer to recover the amount of the payments. When the contracting agency receives notice that the director of insurance [BOARD] has revoked a certificate of self-insurance held by a person to whom a contract has been awarded, the agency may terminate the contract. This subsection does not limit the causes of action or remedies which the state or political subdivision may have against the employer.

② * Sec. 20. AS 23.30.055 is amended to read:

Sec. 23.30.055. EXCLUSIVENESS OF LIABILITY. The liability of an employer prescribed in AS 23.30.045 is exclusive and in place of all other liability of the employer and any fellow employee to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from the employer or fellow employee at law or in admiralty on account of the injury or death. However, if an employer fails to secure payment of benefits [COMPENSATION] as required by this chapter, an injured employee or his legal representative in case death results from the injury may elect to claim benefits [COMPENSATION] under this chapter, or to maintain an action against the employer at law or in admiralty for damages on account of the injury or death. In that action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, or that the employee assumed the risk of his employment, or that the injury was due to the contributory negligence of the employee.

② Sec. 21. AS 23.30.060 is amended to read:

Sec. 23.30.060. ELECTION OF DIRECT PAYMENT PRESUMED. (a) An employer is conclusively presumed to have elected to pay benefits [COMPENSATION] directly to employees for injuries sustained arising out of and in the course of the employment according to the provisions of this chapter, until notice in writing of insurance, stating the name and address of the insurance company and the period of insurance, is given to the employee.

(b) The notice shall be posted and kept on the premises of the employer or on the premises where the employer's operations are being carried on in three conspicuous places, at the office of the employer, at the mess house or boarding house if there is one, and in some conspicuous place on the premises or works. The notice shall be sub-

stantially in the following form, and the signature shall be witnessed by two witnesses:

EMPLOYER'S NOTICE OF INSURANCE

To the employees of the undersigned:

You and each of you are hereby notified that the undersigned is insured in the.....Insurance Company, whose address is.....and that the period covered by the insurance.....in accordance with the terms, conditions and provisions to pay benefits [COMPENSATION] to employees of the undersigned for injuries received as provided in the Act of the State of Alaska, known as the "Alaska Workers' Compensation Act"

Signed.....
.....

Witness:

.....

② * Sec. 22. AS 23.30.070(e) is amended to read:

(e) If the employer or the carrier has been given notice, or the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier has knowledge of an injury or death of an employee and fails, neglects, or refuses to file a report of it as required by the provisions of (a) of this section, the limitations in AS 23.30.105(a) do not begin to run against the claim of the injured employee or his dependents entitled to benefits [COMPENSATION,] or in favor of either the employer or the carrier, until the report has been furnished as required by the provisions of (a) of this section.

② * Sec. 23. AS 23.30.070(f) is amended to read:

(f) An employer who fails or refuses to send a report required of him by this section or who fails or refuses to send the report required

by (a) of this section within the time required shall, if so required by the board, pay the employee or his legal representative or other person entitled to benefits [COMPENSATION] by reason of the employee's injury or death an additional award equal to 20 percent of the compensation [AMOUNTS] which was [WERE] unpaid when due. The award shall be against either the employer or his insurance carrier, or both.

② 24. AS 23.30.075(a) is amended to read:

(a) An employer under this chapter, unless exempted, shall either [,] insure and keep insured for his liability under this chapter in an insurance company or association duly authorized to transact the business of workers' compensation insurance in this state, or shall furnish the director of insurance [BOARD] satisfactory proof of his financial ability to pay directly the benefits [COMPENSATION] provided for. If an employer elects to pay directly, the director of insurance [BOARD] may, in his [ITS] discretion, require

(1) the deposit of an acceptable security, indemnity or bond to secure the payment of benefit [COMPENSATION] liabilities as they are incurred; and

(2) proof of excess insurance.

② 25. AS 23.30.075(b) is amended to read:

(b) An employer who fails to insure and keep insured employees subject to this chapter or fails to obtain a certificate of self-insurance from the board, upon conviction, is punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both. If an employer is a corporation, all persons who, at the time of the injury or death, had authority to insure the [SAID] corporation or apply for a certificate of self-insurance, and the person actively in charge of the business of the [SUCH] corporation shall be subject to the penalties prescribed in this subsection [HEREIN] and shall be

personally, jointly, and severally liable together with the corporation for the payment of all [COMPENSATION OR OTHER] benefits for which the corporation is liable under this chapter if the [SAID] corporation at the [SUCH] time is not insured or qualified as a self-insurer.

① * Sec. 26. AS 23.30.080 is amended by adding a new subsection to read:

→ Sec 4 P2
(d) If an employer fails to insure or provide security as required by AS 23.30.075, the board may issue a stop order prohibiting the use of employee labor by the employer until the employer insures or provides security as required by AS 23.30.075. If an employer fails to comply with a stop order issued under this section, the board shall assess a civil penalty of at least \$1,000 per day. The employer may not obtain a public contract with the state or any of its political subdivisions for one year following the violation of the stop order.

② * Sec. 27. AS 23.30.085(a) is amended to read:

(a) An employer subject to this chapter, unless exempted, shall initially file evidence of his compliance with the insurance provisions of this chapter with the board, in the form prescribed by it. The employer shall also give evidence of compliance within 10 days after the termination of his insurance by expiration or cancellation. These requirements do not apply to an employer who has certification from the director of insurance [BOARD] of his financial ability to pay benefits [COMPENSATION] directly without insurance.

③ * Sec. 28. AS 23.30.090 is amended to read:

Sec. 23.30.090. SELF-INSURANCE CERTIFICATES. If an employer has complied with the provisions of this chapter relating to self-insurance, the director of insurance [BOARD] shall issue him a certificate which shall remain in force for a period fixed by the director of insurance [BOARD]. The director of insurance [BOARD] may, upon at least 10 days' notice and a hearing, revoke a self-insurance certificate upon satis-

factory proof that an employer is no longer entitled to it. After revocation the director of insurance [BOARD] may grant a new certificate to an employer, upon his petition and satisfactory proof of his financial ability as provided in this chapter. The director of insurance shall notify the contracting agency of the state or of a political subdivision of the state when it revokes the self-insurance certificate of an employer holding a contract with the state or a political subdivision of the state. An employer authorized as a self-insurer shall provide claims facilities through its own staffed adjusting facilities located within the state, or independent, licensed, resident adjustors with power to effect settlement within the state.

② ~~Sec. 23.30.092~~ AS 23.30.092 is amended to read:

Sec. 23.30.092. VOLUNTEER AMBULANCE ATTENDANTS, POLICEMEN AND FIREMEN INSURANCE. A political subdivision may elect to provide benefits [AND COMPENSATION] to its volunteer ambulance attendants, policemen or firemen by obtaining insurance which would provide its volunteer ambulance attendants, policemen or firemen with benefits [AND COMPENSATION] at least equivalent to those conferred upon volunteer ambulance attendants, policemen or firemen by this chapter, and the election shall be considered compliance with the coverage and insurance provisions of this chapter. The election shall be made by filing copies of the insurance policy or policies with the commissioner.

① * Sec. 30. AS 23.30.095(a) ^{→ Sec 5 P 2+3} is amended to read:

(a) The employer shall furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires [, NOT EXCEEDING TWO YEARS FROM AND AFTER THE DATE OF INJURY TO THE EMPLOYEE. HOWEVER, IF THE CONDITION REQUIRING THE TREATMENT, APPARATUS, OR MEDICINE IS A LATENT ONE, THE TWO-YEAR

PERIOD RUNS FROM THE TIME THE EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF HIS DISABILITY AND ITS RELATIONSHIP TO HIS EMPLOYMENT AND AFTER-DISABLEMENT. IT SHALL BE ADDITIONALLY PROVIDED THAT, IF CONTINUED TREATMENT OR CARE OR BOTH BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED EMPLOYEE HAS THE RIGHT OF REVIEW BY THE BOARD. THE BOARD MAY AUTHORIZE CONTINUED TREATMENT OR CARE OR BOTH AS THE PROCESS OF RECOVERY MAY REQUIRE]. When medical care is required, the injured employee may designate a ^② licensed physician inside the state to render the care except in cases where, in the judgment of the board, care or treatment or both can best be administered by the selection of another ^② licensed physician. Upon procuring the services of a ^③ licensed physician, the injured employee shall give proper notification of his selection to the employer within a reasonable time after first being treated. [IF FOR ANY REASON DURING THE PERIOD WHEN MEDICAL CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO ANOTHER PHYSICIAN, HE MAY DO SO IN ACCORDANCE WITH RULES PRESCRIBED BY THE BOARD.]

SEC 7 P 3+4

* Sec. 31. AS 23.30.095(c) is amended to read:

① (c) No claim for medical or surgical treatment is valid and enforceable as against the employer unless, within 20 [TWENTY] days following each visit for [THE FIRST] treatment, the physician giving the treatment or the employee receiving it furnishes to the employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall [MAY], however, excuse the failure to furnish notice within 20 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical or surgical treatment so obtained by the employee.

① * Sec. 32. AS 23.30.095(e) is amended to read:

(e) The employee shall, after an injury, at reasonable times

during the continuance of his disability if requested by his employer or, when ordered by the board, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of the state in which the employee may be found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR EXAMINATIONS.] No fact relative to the injury or claim communicated to or otherwise learned by a physician or surgeon who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the benefits [COMPENSATION] provisions of this chapter. If an employee refuses to submit himself to any examination provided for in this section [HEREIN], his rights to compensation shall be suspended until the obstruction or refusal ceases, and his compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter [HEREUNDER], be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

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Sec. 23.30.100 AS 23.30.100(a) is amended to read:

Sec. 23.30.100. NOTICE OF INJURY OR DEATH. (a) Notice of an injury or death in respect to which benefits are [COMPENSATION IS]

payable under this chapter shall be given within 30 days after the date of the [SUCH] injury or death to the board and to the employer.

② * Sec. 34. AS 23.30.100(b) is amended to read:

(b) The notice shall be in writing, contain the name and address of the employee and a statement of the time, place, nature, and cause of the injury or death, and be signed by the employee or by a person on his behalf, or in case of death, by a person claiming to be entitled to benefits [COMPENSATION] for the death or by a person on his behalf.

② * Sec. 35. AS 23.30.100(d) is amended to read:

(d) Failure to give notice does not bar a claim under this chapter

(1) if the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier had knowledge of the injury or death and the board determines that the employer or carrier has not been prejudiced by failure to give notice;

(2) if the board excuses the failure on the ground that for some satisfactory reason notice could not be given;

(3) unless objection to the failure is raised before the board at the first hearing of a claim for benefits [COMPENSATION] in respect to the injury or death.

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* Sec. 36. AS 23.30.105 is amended to read:

① Sec. 23.30.105. TIME FOR FILING OF CLAIMS. ① (a) The right to benefits [COMPENSATION FOR DISABILITY] under this chapter is barred unless a claim for them [IT] is filed within two years after the employee has knowledge of the nature of his disability and its relation to his employment and after disablement. The [HOWEVER, THE MAXIMUM TIME FOR FILING THE CLAIM IN ANY EVENT OTHER THAN ARISING OUT OF AN OCCUPATIONAL DISEASE SHALL BE FOUR YEARS FROM THE DATE OF INJURY, AND THE] right to benefits [COMPENSATION] for death is barred unless a

claim for benefits [THEREFORE] is filed within one year after the death. If [, EXCEPT THAT IF] payment of benefits [COMPENSATION] has been made without an award on account of the injury or death, a claim may be filed within one year [TWO YEARS] after the date of the last payment. It is additionally provided that, in the case of a latent injury [DEFECTS PERTINENT TO AND CAUSING COMPENSABLE DISABILITY], the injured employee has full right to claim as shall be determined by the board, time limitations notwithstanding.

② Failure to file a claim within the period prescribed in (a) of this section is not a bar to benefits [COMPENSATION] unless objection to the failure is made at the first hearing of the claim in which all parties in interest are given reasonable notice and opportunity to be heard.

② If a person who is entitled to benefits [COMPENSATION] under this chapter is mentally incompetent or a minor, the provisions of (a) of this section are not applicable so long as he has no guardian or other authorized representative, but are applicable in the case of a person who is mentally incompetent or a minor from the date of appointment of a guardian or other representative, or in the case of a minor, if no guardian is appointed before he becomes of age, from the date he becomes of age.

② If recovery is denied to a person, in a suit brought at law or in admiralty to recover damages in respect to injury or death, on the ground that he was an employee and that the defendant is an employer within the meaning of this chapter and that the employer has secured benefits [COMPENSATION] to the employee under this chapter, the limitation of time prescribed in (a) of this section begins to run only from the date of termination of the suit.

* Sec. 37. AS 23.30.106(b) is amended to read:

(b) The payment or award of benefits under the workers' compensation law of another state, territory, province, or foreign nation to an employee or his dependents otherwise entitled on account of the injury or death to the benefits under this chapter is not a bar to a claim for benefits under this chapter; however, a claim under this chapter must be filed within the time limits set out in this chapter. If benefits are [COMPENSATION IS] paid or awarded under this section:

(1) the medical and related benefits furnished or paid for by the employer under another workers' compensation law on account of the injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this chapter had claim been made solely under this chapter;

(2) the amount of all income benefits paid or awarded the employee under another workers' compensation law shall be credited against the total amount of income benefits which would have been due the employee under this chapter had claim been made solely under this chapter;

(3) the total amount of death benefits paid or awarded under another workers' compensation law shall be credited against the total amount of death benefits due under this chapter.

② * Sec. 38. AS 23.30.106(c) is amended to read:

(c) If an employee is entitled to the benefits of this chapter by reason of an injury sustained in this state in employment by an employer who is domiciled in another state and who has not secured the payment of benefits [COMPENSATION] as required by this chapter, the employer or his carrier may file with the board a certificate, issued by the commission or agency of the other state having jurisdiction over workers' compensation claims, certifying that the employer has secured the payment of benefits [COMPENSATION] under the workers' compensation law

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of the other state and that with respect to that injury the employee is entitled to the benefits provided under that law. In that event

(1) the filing of the certificate shall constitute an appointment by the employer or his carrier of the board as his agent for acceptance of the service of process in a proceeding brought by the employee or his dependents to enforce his or their rights under this chapter on account of the injury;

(2) the board shall send to the employer or carrier, by registered or certified mail to the address shown on the certificate, a true copy of any notice of claim or other process served on the director by the employee or his dependents in any proceeding brought to enforce his or their rights under this chapter;

(3) if the employer is a qualified self-insurer under the workers' compensation law of the other state, the employer, upon submission of evidence satisfactory to the board of his ability to meet his liability to the employee under this chapter, shall be considered to be a qualified self-insurer under this chapter;

(4) if the employer's liability under the workers' compensation law of another state is insured, the employer's carrier, as to the employee or his dependents only, shall be considered to be an insurer authorized to write insurance under and be subject to this chapter; however, unless its contract with the employer requires it to pay an amount equivalent to the [COMPENSATION] benefits provided by this chapter, its liability for income benefits or medical and related benefits may not exceed the amounts of the benefits for which the insurer would have been liable under the workers' compensation law of the other state;

(5) if the amount for which the employer's insurance is liable under (3) and (4) of this subsection is less than the total [OF

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THE COMPENSATION] benefits to which the employee is entitled under this chapter, the board may, if it considers it necessary, require the employer to file security satisfactory to the board to secure the payment of benefits due the employee or his dependents under this chapter; and

(6) upon compliance with the preceding requirements of (c) of this section, the employer, as to the employee only, shall be considered to have secured the payment of benefits [COMPENSATION] under this chapter.

② * Sec. 39. AS 23.30.110(a) is amended to read:

(a) Subject to the provisions of AS 23.30.105, a claim for benefits [COMPENSATION] may be filed with the board in accordance with its regulations at any time after the first seven days of disability following an injury, or at any time after death, and the board may hear and determine all questions in respect to the claim.

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① * Sec. 40. AS 23.30.110(c) is amended to read:

(c) The board shall make the investigation which it considers necessary in respect of the claim, and upon application of an interested party shall order a hearing on it. If a hearing on a claim is ordered, the board shall give the claimant and other interested parties at least 10 days' notice of the hearing, served personally upon the claimant and other interested parties or sent by registered mail, and shall, within 30 [20] days after the hearing is held [HAD], by order, reject the claim or make an award in respect to it. [IF NO HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN RESPECT TO IT.]

② * Sec. 41. AS 23.30.120 is amended to read:

Sec. 23.30.120. PRESUMPTIONS. In a proceeding for the enforce-

ment of a claim for benefits [COMPENSATION] under this chapter it is presumed, in the absence of substantial evidence to the contrary, that:

(1) the claim comes within the provisions of this chapter;

(2) sufficient notice of the claim has been given;

(3) the injury was not occasioned solely by the intoxication of the injured employee;

(4) the injury was not occasioned by the wilful intention of the injured employee to injure or kill himself or another.

② Sec. 42. AS 23.30.130 is amended to read:

Sec. 23.30.130. MODIFICATION OF AWARDS. (a) Upon its own initiative, or upon the application of any party in interest on the ground of a change in conditions, including, for the purposes of AS 23.30.175, a change in residence, or because of a mistake in its determination of a fact, the board may, before one year after the date of the last payment of benefits [COMPENSATION,] whether or not a compensation order has been issued, or before one year after the rejection of a claim, review a compensation case in accordance with the procedure prescribed in respect of claims in AS 23.30.110. In accordance with AS 23.30.110 the board may issue a new compensation order which terminates, continues, reinstates, increases, or decreases the compensation, or award benefits [COMPENSATION].

(b) A new order does not affect benefits [COMPENSATION] previously paid, except that an award increasing the compensation rate may be made effective from the date of the injury, and if part of the compensation due or to become due is unpaid, an award decreasing the compensation rate may be made effective from the date of the injury, and payment made earlier in excess of the decreased rate shall be deducted from the unpaid compensation, in the manner the board determines.

② Sec. 43. AS 23.30.140 is amended to read: