

ALPHA STATION 2000  
SB - 2.77  
SB 280

## Factors favoring creation of A.I.C.A.

1. Primary market for coverage is Lloyds of London. This market writes 90% of the aircraft insurance. That market is not regulated.
2. Statistics from the unregulated market concerning loss levels are sketchy at best and do not permit realistic conclusions as to the experience in that market.
3. Quotations in current market are limited to initial broker.
4. Rates for general aviation hull have been reported as high as 20% which (if you assume 40% for expenses including commission) equates to a total loss of each aircraft every eight (8) years.
5. Rates for commercial aviation hull have been reported as high as 16% which (if you assume 40% for expenses including commission) equates to a total loss of each aircraft every ten (10) years.
6. With aircraft insurance rates so high, it is difficult for aviation interests to develop enough additional funds to adequately capitalize an insurer. Only the State is in a position to provide necessary initial funds.
7. The Marine Highway System in Southeast and South Central is subsidized. The land highway system in Southeast, South Central and Central Alaska is subsidized. Many communities lie outside the subsidized systems and must depend on air travel. A.I.C.A. is only indirectly a subsidization.
8. Even though A.I.C.A. is a State created, State owned corporation, it operates independent of the State and is, thus, not subject to the bureaucratic inefficiencies that may exist in government.
9. Funds for insurance are currently leaving State and the country, thus, contributing to balance of trade deficit. If the rate levels are not excessive, there would still be an advantage to having a domestic entity provide coverage, not the least of which is expediting claims.
10. Coverage will be available through any agent or broker licensed in Alaska.
11. Lloyds is traditionally slow to pay claims.

SB 277  
An Act Relating to Aviation Insurance  
Section by Section Analysis

\*Section 1.

Provides insurance for liability and hull damage.

\*Section 2.

- 21.86.010. Corporation Established. This section establishes a corporation of the state which is to be operated separate from the state.
- 21.86.020. Corporation Board of Directors. The Board of Directors is to be appointed by the Governor and confirmed by the Legislature. The board is comparable to the Board of Directors of an insurance company. There are nine members serving terms of three years. The make up of the board is
  - 1 Member from a Part 121 scheduled air carrier;
  - 2 Members from air taxis;
  - 2 Members from nonbusiness aviation;
  - 2 Members from the insurance industry; and
  - 2 Members from the public.

The director of insurance has access and notice to all meetings. He also approves the level of compensation to board members. 020(f) defines the liability of a board member.

- 21.86.030. Corporation Plan of Operation. This section provides for development of a plan of operation roughly equivalent to the bylaws of a corporation. It lists in general the items that must be addressed in the plan of operation.
- 21.86.040. Powers and Duties of the Corporation. Subsection (a) lists the functions that the corporation must perform including the establishment of underwriting standards, the underwriting of risk, the issuance of policies, the development and filing of rates, the meeting of its obligations under policies issued, and the gathering and reporting of statistics.

Subsection (b) permits the corporation to hire employees, negotiate reinsurance, expand coverages, borrow money, enter into contracts, sue or be sued, provide services other than insurance, negotiate and contract for management services, and do whatever else is necessary to carry out the duties of the corporation.
- 21.86.050. Establishment of Risk Standards. This section provides that the corporation may refuse coverage.

- 21.86.060. Limits on Liability Policies. This section excludes punitive damages coverage and provides for the approval of the policy limits offered by the director of insurance.
- 21.86.070. Reporting of Claims. This section requires an annual report of claims activity to the director to be available to the public and the Alaska Transportation Commission.
- 21.86.080. Termination. This section provides conditions for termination of the operation of the corporation and for reactivation of the corporation following a termination.
- 21.86.090. Premium Tax. This section places the premium tax structure for the corporation on the same basis as that applicable to a domestic corporation under AS 21.09.210.
- 21.86.100. Rates. This section provides for categories of risk, that rates may not be excessive, inadequate or unfairly discriminatory, lists items that may be considered in rate review and requires an annual review of rates.
- 21.86.110. Assessments on Insureds. This is a provision that is not usual to a stock corporation which in a sense is what we would have with the creation of this corporation. The State of Alaska would be the holding company. Assessment provisions are usual to reciprocal exchanges and to mutual insurance companies where the insuring entity is owned by the persons insured. It is a form of solvency protection in the event of a financial failure. Provision is made for extinguishment of the assessment provision when surplus reaches a certain level and limits the maximum assessment to 50% of an annual premium.
- 21.86.120. Refunds to Insureds. This section provides for participation by insured persons in the excess profits of the corporation in proportion to his earned premium for the particular year.
- 21.86.130. Payment of Premiums; Cancellation of Insurance. This section allows installment payment of premium, and for cancellation due to nonpayment of premium.
- 21.86.140. Sale of Corporation. This section provides that the corporation may be sold to a private corporation under conditions approved by the director.
- 21.86.200. Fund Established. This section establishes a loan fund in the Department of Commerce and Economic Development in the amount of \$30,000,000 with a 7% interest rate.
- 21.86.960. Applicability of Other Laws in this Title. This section makes this new Chapter 86 exclusive of the insurance code (Title 21) except as provided within the chapter. External insurance statutes applicable to the corporation are

AS 21.06.090. This section of law is the director's authority to promulgate regulations under AS 21.

AS 21.06.120. Director's authority to examine an insurer.

AS 21.06.140. Sets forth the procedure for examining an insurer.

AS 21.06.160. Provides that examination expense will be borne by the examined insurer.

AS 21.06.250. Fees and licenses section.

AS 21.09.180. Provides that the director is attorney for service of process.

AS 21.09.190. Provides for serving process and sets the time to plead.

AS 21.09.200. Requires an annual statement.

AS 21.09.250. Defines unlawful acts related to payment of commission to unlicensed producers.

AS 21.09.280. Sets forth the power to appoint general agents or managers.

AS 21.12 (b)-(e). Deals with reinsurance.

AS 21.18. This chapter regulates assets and liabilities.

AS 21.21. This chapter deals with the regulation of investments.

AS 21.24. This chapter addresses the administration of deposits.

AS 21.36. This chapter regulates and prohibits unfair trade practices.

- 21.86.970. Meetings. This section provides that meetings of the corporation are not subject to AS 44.62.310 concerning state agency meetings being open to the public.

- 21.36.980. Definitions.

\*Section 3.

Provides for staggered terms for board members.

\*Section 4.

Effective date clause.

AVIATION EXPERIENCE - ADMITTED INSURERS - 1970 to 1980 (000) OMITTED  
STATE OF ALASKA

	1970		1971		1972		1973		1974		1975		1976		1977		1978		1979		1980	
	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL
ACTNA CASUALTY-SURETY CO	-	-	-	-	17	144	0	13	0	(4)	-	-	-	-	-	-	-	-	-	-	-	-
ALL STATE INSURANCE CO	-	-	-	-	21	18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
AMERICAN BANKERS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	82	128	89	(73)	-	-	-	-
AMERICAN HOME INS CO	-	-	0	84	0	(34)	-	-	12	0	21	0	0	22	2	2	72	16	58	443	59	31
AMERICAN MARINE INS CO	-	-	-	-	1	0	-	-	-	-	1	0	-	-	-	-	-	-	-	-	-	-
ARGONAUT INS CO	-	-	-	-	3	6	8	0	3	1	112	319	0	(36)	0	(14)	-	-	-	-	-	-
AVIATION	41	22	70	48	87	89	71	92	58	59	70	10	81	44	122	42	131	109	47	87	245	239
CASUALTY INDEMNITY EXCH.	-	-	-	-	-	-	-	-	5	0	-	-	-	-	-	-	-	-	-	-	-	-
CENTRAL INS CO	417	35	466	(14)	413	(3)	428	319	44	(22)	(2)	(15)	-	-	-	-	-	-	-	-	-	-
CENTRAL NATIONAL INS CO	-	-	-	-	-	-	-	-	-	-	-	-	64	43	679	1,435	378	1,055	352	345	722	67
CHIEF AMERICAN INS CO	-	-	-	-	-	-	-	-	-	-	-	-	23	726	437	256	218	625	(2)	(24)	0	(22)
CIRCLE STAR	29	(1)	49	10	10	2	0	(8)	0	(1)	-	-	0	(10)	0	80	0	(4)	0	(2)	-	-
EMERALD MUTUAL INS CO	1	0	1	7	-	-	-	-	-	-	-	-	-	-	-	-	0	11	0	(1)	-	-
EMSCO	-	-	0	54	-	-	0	6	0	(2)	0	318	0	(3)	0	1	-	-	-	-	-	-
EMPLOYERS CONTROL UNION INS CO	-	-	4	0	-	-	-	-	-	-	-	-	-	-	-	-	0	3	-	-	-	-
FEDERAL INS CO	-	-	-	-	1	0	-	-	1	0	3	0	-	-	19	0	3	(3)	0	(1)	-	-
FIREMEN'S INS CO	14	0	11	0	-	-	3	0	13	0	6	646	(1)	(2)	0	(33)	7	2	7	(66)	-	-
FIDELITY CASUALTY OF N.Y.	-	-	30	0	3	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
FOREMOST INS CO	311	43	40	35	-	-	2	18	8	11	5	40	0	(1)	-	-	-	-	-	-	-	-
GLEN FALLS INS CO	-	-	-	-	-	-	-	-	1	0	-	-	-	-	-	-	-	-	-	-	-	-
GRAN AMERICAN INS CO	24	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	(1)	-	-	-	-
HANDLER INS CO	-	-	-	-	-	-	6	26	33	(1)	7	0	6	1	7	66	2	17	257	531	156	609
HAZARD INS CO	-	-	-	-	-	-	-	-	-	-	34	0	31	0	14	0	3	8	1	26	-	-
HAZZARD INS CO	52	37	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	7	0	(4)	-	-
HOMER INSURANCE CO	-	-	-	-	-	-	-	-	-	-	2	0	2	0	2	0	-	-	-	-	-	-
IDA AL	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	3	1	0	-	-
INA	-	-	4	(1)	12	0	51	68	52	23	70	27	26	6	1	(1)	2	0	3	0	3	315
INDUSTRIAL INDEMNITY INS CO	-	-	-	-	-	-	-	-	-	-	1	0	-	-	-	-	-	-	-	-	-	-
INDUSTRIAL INDEMNITY INS CO OF AK	-	-	-	-	-	-	-	-	-	-	1	0	1	0	-	-	-	-	-	-	-	-
INS CO OF STATE OF ALASKA	-	-	107	-	16	182	47	(9)	4	0	64	17	57	313	31	111	2	0	1	(1)	1	0
INDIAN INS CO	-	-	-	-	-	-	-	-	-	-	187	246	11	(22)	-	-	-	-	(58)	(6)	0	3
INTE AMERICAN INS CO	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	615	0	(321)	0	(62)
INTE UNION FIRE INS CO	-	-	-	-	-	-	-	-	-	-	19	0	4	9	7	15	31	8	89	0	12	4
IRVING-CLOUD INS CO	12	0	440	221	659	1,15	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
IRVING-CLOUD INS CO	-	-	-	-	-	-	-	-	126	573	95	(87)	1	(42)	0	110	0	(70)	0	1	-	-

PACIFIC INDEMNITY INS. CO.	0	(9)	0	5	0	3	-	-	-	-	-	-	-	-	-	-	-	-
PACIFIC INSURANCE CO.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
PAN AMERICAN INS. CO.	-	-	26	7	258	535	120	588	361	512	201	1,011	154	876	357	(443)	-	-
PROPRIETORS INS. CO.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	403	521
PURETAN INS. CO.	-	-	-	-	-	-	-	-	-	-	-	-	377	823	422	1,778	1,157	2,289
RAPIER INS. CO.	-	-	3	-	212	163	62	29	87	203	77	427	122	128	-	-	-	-
REPUBLIC INS. CO.	-	-	-	-	80	81	68	9	95	77	147	226	137	537	(8)	(22)	0	(6)
RESERVE INS. CO.	17	3	1	(2)	1	0	273	679	527	717	880	648	(60)	(175)	0	133	0	(33)
ROYAL INDEMNITY CO.	-	-	-	-	2	0	-	-	-	-	-	-	-	-	-	-	-	-
STOUT & SAFFER INS. CO.	-	-	-	-	-	-	13	9	272	678	331	900	13	73	0	277	-	-
U.S. FIRE INS. CO.	-	-	24	0	-	-	-	-	-	-	-	-	-	0	1	2,132	258	(1,310)
U.S. LIABILITY INS. CO.	-	-	-	-	-	-	-	-	-	-	361	193	190	191	(1)	207	0	(132)
YORKMIRE INS. CO.	5	0	-	-	-	-	-	-	0	2	-	-	-	-	-	-	-	-
TOTALS	923	132	1,278	511	1,765	1,678	1,439	1,843	1,739	2,821	2,351	5,136	1,379	2,789	2,194	4,096	7,116	6,427
LOSS RATIO	14.3%		39.1%		62.2%		128.1%		162.2%		218.2%		202.2%		186.7%		240.2%	

11 YEAR LOSS RATIO

$$12 \div EP = LR$$

$$25,691 \div 18,512 = 138.8\%$$

EP = EARNED PREMIUM

IL = INCURRED LOSS

WP = WRITTEN PREMIUM

PL = PAID LOSS

PREPARED: ALASKA DIVISION OF INSURANCE

SOURCE: ANNUAL INSURANCE REPORTS

DATE: 8-31-81 (825)

NON ADMITTED  
INSURERS 1970-1980-  
ADDITIONAL EXPERIENCE  
(000) OMITTED

	1970		1971		1972		1973		1974		1975		1976		1977		1978		1979		1980	
	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL
	4,036	1,590	3,942	1,415	3,177	1,568	2,492	4,610	8,883	10,064	7,470	5,842	10,465	4,919	7,163	4,450	13,902	7,307	12,872	8,563		

POSITION PAPER - SENATE BILL 277

PREPARED BY: CENTRAL ALASKA INDEPENDENT INSURANCE AGENTS & BROKERS, INC  
ALASKA SURPLUS LINES ASSOCIATION  
ALASKA INDEPENDENT AGENTS & BROKERS ASSOCIATION  
VARIOUS AGENTS AND BROKERS

Consumers are complaining about rates and Legislators have reacted with Senate Bill 277 instead of conducting research into the basic problem, being accidents.

We are opposed to Senate Bill 277 for the following reasons:

PROBLEMS

1. Senate Bill 277 appears to be based in part on the premise that Aviation Insurance is not available. This is simply not true.
2. Senate Bill 277 fails to address the subject of rate levels.
3. Senate Bill 277 apparently would create a State funded monopoly and appears to have been drafted without proper research into what the existing markets are.
4. Senate Bill 277 does not limit itself to the subject of air commerce which is vital to our State, but would also include the pleasure pilot. While subsidizing air commerce may or may not have a sound basis in logic, subsidizing the pleasure pilot would not unless we are also going to subsidize the pleasure boat owners, snow machiners, skiers, motorcyclists, etc.

5. Senate Bill 277 fails to recognize, which leads one to believe that Legislators are unaware of, the National Transportation Safety Board Report on Air Taxi Safety in Alaska (NTSB-AAS-80-3) and the Recommendations made in said report on pages 32 and 33.
6. Senate Bill 277 favors governmental involvement in a business in competition with free enterprise even though the present administration has stated vehemently for seven years that it believes in the free enterprise system.
7. Senate Bill 277 ignores the basic fact that airplanes and pilots kill and maim residents and tourists of our State each year at an alarming rate and attempts to place the blame upon the insurers who only pay on the results.
8. Senate Bill 277 appears to endorse and encourage the continuation of unsafe flying practices and puts a stamp of approval on the accident rate which is, if looked at from that point of view, simply outrageous and unacceptable, and to expect State's monies, i.e. all citizens, to share in these costs is incredible. We suggest that Legislators, pleasure pilots, air commerce and the insurance industry work in concert to accomplish what needs to be done to reduce the accident rate and save lives which will, when accomplished, reduce insurance costs.

We suggest that:

- A. Serious consideration be given to the NTSB Report.
  - B. The effect of Rule 82, Supreme Court Decisions, Unilateral Repudiation of Release, Pre-Judgment Interest, and other unhealthy legalities which adversely effect our State's ability to attract Insurers in general and especially Aviation Insurers be examined.
9. In closing we respectfully request an opportunity to meet with you and other interested Legislators with representatives from the Insurer community (i.e. companies), the Alaska Surplus Lines Association, the Anchorage Agents Association and various attorneys who have all expressed a concern and who, like insurance brokers, have daily contact with the effected area of the law.

#### ASSESSABILITY

Senate Bill 277 has been drafted to create a reciprocal insurer which is not covered by the Guarantee Association of the State of Alaska. Again, it would appear that Legislators have failed to conduct proper research into the success of assessability of policy holders, especially in this class of business where the participants are, by the very nature of the industry, transient and assessing them would prove extremely difficult or impossible.

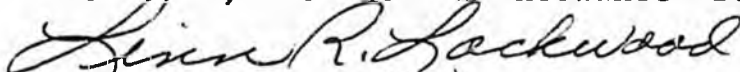
We would suggest that Legislators request input from other state Divisions of Insurance to determine the inability to "collect" from policy holders after the fact and request again that Legislators working in concert with representatives from the Insurer community, Alaska Surplus Lines Association, Anchorage Agents Association and various attorneys do a study on this particular problem.

Respectfully submitted,



MARK S. RAUCH, CPCU

President, Central Alaska Independent Insurance Agents & Brokers, Inc.  
President, Pacific Rim Insurance Brokers, Inc.



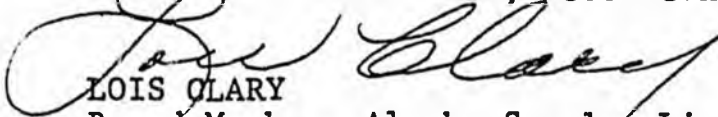
LIN R. LOCKWOOD

President, Alaska Surplus Lines Association  
President, Great Land General Agency



DAVID BLACKWOOD

Senior Vice President, Reed Stenhouse Inc. of Alaska



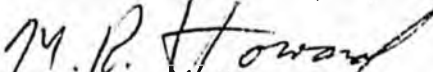
LOIS OLARY

Board Member, Alaska Surplus Lines Association  
President, Bayly, Martin & Fay, Inc. of Alaska dba Clary Ins. Agency



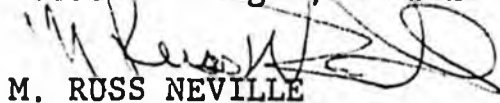
DON COATES

Secretary-Treasurer, Alaska Surplus Lines Association  
Corroon & Black/Dawson Co. Inc.



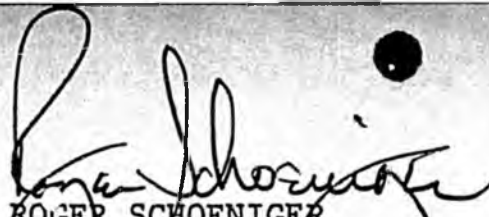
MICHAEL R. HOWARD


Account Manager, Rollins Burdick Hunter of Alaska Inc.



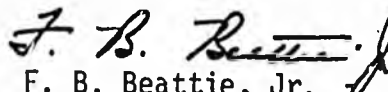
M. RUSS NEVILLE

Committee Member, Central Alaska Independent Insurance Agents & Brokers  
Committee Member, Alaska Independent Agents & Brokers Association  
Board Member, Alaska Surplus Lines Association

  
ROGER SCHOENIGER  
Director, Alaska Surplus Lines Association  
Executive Vice President, Brady & Associates

  
KENNETH M. TAYLOR  
Vice President, Alexander & Alexander Inc.

CHARLES WEIR  
Alexander & Alexander, Inc.

  
F. B. Beattie, Jr. President  
F. B. BEATTIE & CO., INC.



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### Committee Minutes:

4 May, 1981

Senator Mulcahy called the Senate Committee on Labor and Commerce meeting to order, with all members present except Senator Ziegler who was excused from a call of the Senate while conducting State business. SB 277 was before the committee for discussion; an act relating to aviation insurance.

In the absence of the sponsor, Senator Fergusson, co-sponsor began the testimony with an explanation of the circumstances which inspired the bill, and provided an overview of the aviation insurance problems facing many pilots in Alaska. He expounded on the high cost of insurance, the lack of competition, and the unregulated foreign market which dominates the industry. AICA was designed to provide relief for Alaskan pilots whose insurance rates have been effected since the withdrawal of domestic aviation insurance carriers.

Senator Mulcahy asked if there were questions for Senator Fergusson, and stated for the record that Senator Eliason (prime sponsor) was unable to attend the meeting and was excused from a call on the Senate while conducting business for the State.

The next testimony was provided by Tulinda Deegan, Alaska Air Carriers Association, who briefly discussed the insurance problem as a reflection of high accident rates, and the balance of her testimony was devoted to elaborating on the creation of a proposed aviation safety foundation. Citing data extracted from the NTSB report, she emphasized the importance of training and education to reduce accidents and lower insurance rates.

Craig Clark, Alaska Air Carriers Association, spoke about insurance rates and the increases in premiums for both commercial and general aviation. Explained that liberal court awards for liability damages have increased the rates, and these rates have impacted aircraft sales. Stressed the points expressed in the Air Carriers position paper: 1. Selective underwriting of aviation risks;

2. Recognition of aviation safety training

3. Wrongful death limit

Further stated that subsidization by the State (AICA) without the implementation of the solutions he outlined (~~would result in~~) will perpetuate the high aviation accident rate and the ultimate failure of the proposed AICA program.

Senator Fahrenkamp asked about the Air Carriers dissatisfactions; what recommendations are you making? Mr. Clark responded with a statement about premium increases.

Russ Neville testified next from the insurance industry's perspective explaining his background as an insurance broker for the past 15 years, 8 of which were in Alaska. Began his testimony with a reference to the rumor that Lloyds of London had withdrawn from the aviation market which was unfounded. Described the insurance market in London, 3 year cycles for their data, and that in a year period there were \$48 million dollars in premiums collected and a subsequent \$59 million dollars in paid claims, as an explanation of today's increased insurance costs. He further stated that insurance premium increases were also a reflection of liberal court awards (damages and liability), and the FAA. Mr. Neville cited the statistical data which he had compiled, making the report available to committee members, and expressed his support for the aviation safety foundation, and the conclusions of the NTSB report. Mr. Neville represented the Alaska Insurance agents and brokers association.

Mr. Wade Cochran, Sitka Air Services, testified in support of the legislation, expressing the need for guaranteed availability of aviation insurance to Alaskan pilots. He made the point that local interests are better able to assess the liabilities incurred, and that rate structures should be established with knowledge of local conditions. He addressed the economic incentives of SB 277, the possibility of insurance companies establishing safety programs to reduce accident rates (as they do with other types of insurance), and make varied rate structures available for pilots with demonstrated good aviation records. Further stated that the bill is not a subsidy (the initial money is to be refunded), and that passage of this bill should enhance air safety and provide markets for aviation insurance customers.

Ken Bellows, S.E. Alaska Pilots Association, expressed his feeling

that SB 277 addresses aviation industry needs. Mr. Bellows perspective on aviation is that of an air taxi operator, with an accident free record for 17 years of flying, and a premium increase this year of 50%. He stressed the inconsistencies of the insurance industry (rates), and the hesitancy of the insurance agents to make more than three inquiries of the London underwriters. The Southeast Pilots Association support this legislation.

The final testimony was provided by Don Koch, Division of Insurance, explaining briefly that the Department has taken a neutral position toward the bill.

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

April 2, 1981

The Honorable Bob Mulcahy  
Chairman  
Senate Labor and Commerce Committee  
Pouch V  
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 277

Thank you for your request for our position on SB 277. We have taken a neutral position on this legislation. The bill is modeled after AS 21.88 which was formed to resolve a market availability crisis for medical professional liability insurance in 1976. SB 277 establishes a similar corporation (A. I. C. A.) to write aviation hull and liability insurance for risks in Alaska. More than 90% of this market is written in nonadmitted, nonregulated markets such as Lloyds of London.

We have prepared a list of factors favoring creation of A. I. C. A. and a list of factors not favoring creation of A. I. C. A. These are enclosed for your review.

In addition, the Division of Insurance has prepared a section by section analysis and a chart of the aviation experience for 1970 to 1980 for insurers admitted to write insurance in this State. These materials are also enclosed for your perusal. The chart of aviation experience also lists the experience for nonadmitted insurers but the data is not completely reliable since it does not come directly from the insurer.

As I noted earlier, we do not take a position of the bill but we do have an interest in assuring that the proposal is workable and can be administered. This proposal does meet those provisions.

Very truly yours,

Charles R. Webber  
Commissioner

CRW/tt3/7

08-H2LH

Enclosures

## Factors opposing creation of A.I.C.A.

1. The principal argument in opposition is philosophical. This can be viewed as placing the State in the insurance business thus in competition with private industry.
2. There has been no documentation or substantiation that currently available rate levels are excessive.
3. There has been no documentation or substantiation that current marketing practices are inappropriate.
4. Viability of the program relies on the ability of A.I.C.A. to purchase reinsurance at reasonable rates. This ability has not been tested.
5. Two admitted markets are considering the provision of a market in Alaska. These are U.S.A.I.G. and A.O.A.
6. Formation of A.I.C.A. may tend to become a monopolistic or exclusive market. There may not be sufficient risks left to attract other markets including Lloyds.
7. There are other market segments that might equally argue for creation of similar corporations.

## Factors favoring creation of A.I.C.A.

1. Primary market for coverage is Lloyds of London. This market writes 90% of the aircraft insurance. That market is not regulated.
2. Statistics from the unregulated market concerning loss levels are sketchy at best and do not permit realistic conclusions as to the experience in that market.
3. Quotations in current market are limited to initial broker.
4. Rates for general aviation hull have been reported as high as 20% which (if you assume 40% for expenses including commission) equates to a total loss of each aircraft every eight (8) years.
5. Rates for commercial aviation hull have been reported as high as 16% which (if you assume 40% for expenses including commission) equates to a total loss of each aircraft every ten (10) years.
6. With aircraft insurance rates so high, it is difficult for aviation interests to develop enough additional funds to adequately capitalize an insurer. Only the State is in a position to provide necessary initial funds.
7. The Marine Highway System in Southeast and South Central is subsidized. The land highway system in Southeast, South Central and Central Alaska is subsidized. Many communities lie outside the subsidized systems and must depend on air travel. A.I.C.A. is only indirectly a subsidization.
8. Even though A.I.C.A. is a State created, State owned corporation, it operates independent of the State and is, thus, not subject to the bureaucratic inefficiencies that may exist in government.
9. Funds for insurance are currently leaving State and the country, thus, contributing to balance of trade deficit. If the rate levels are not excessive, there would still be an advantage to having a domestic entity provide coverage, not the least of which is expediting claims.
10. Coverage will be available through any agent or broker licensed in Alaska.
11. Lloyds is traditionally slow to pay claims.

SB 277  
An Act Relating to Aviation Insurance  
Section by Section Analysis

\*Section 1.

Provides insurance for liability and hull damage.

\*Section 2.

- 21.86.010. Corporation Established. This section establishes a corporation of the state which is to be operated separate from the state.

- 21.86.020. Corporation Board of Directors. The Board of Directors is to be appointed by the Governor and confirmed by the Legislature. The board is comparable to the Board of Directors of an insurance company. There are nine members serving terms of three years. The make up of the board is

- 1 Member from a Part 121 scheduled air carrier;
- 2 Members from air taxis;
- 2 Members from nonbusiness aviation;
- 2 Members from the insurance industry; and
- 2 Members from the public.

The director of insurance has access and notice to all meetings. He also approves the level of compensation to board members. 020(f) defines the liability of a board member.

- 21.86.030. Corporation Plan of Operation. This section provides for development of a plan of operation roughly equivalent to the bylaws of a corporation. It lists in general the items that must be addressed in the plan of operation.

- 21.86.040. Powers and Duties of the Corporation. Subsection (a) lists the functions that the corporation must perform including the establishment of underwriting standards, the underwriting of risk, the issuance of policies, the development and filing of rates, the meeting of its obligations under policies issued, and the gathering and reporting of statistics.

Subsection (b) permits the corporation to hire employees, negotiate reinsurance, expand coverages, borrow money, enter into contracts, sue or be sued, provide services other than insurance, negotiate and contract for management services, and do whatever else is necessary to carry out the duties of the corporation.

- 21.86.050. Establishment of Risk Standards. This section provides that the corporation may refuse coverage.

- 21.86.060. Limits on Liability Policies. This section excludes punitive damages coverage and provides for the approval of the policy limits offered by the director of insurance.
- 21.86.070. Reporting of Claims. This section requires an annual report of claims activity to the director to be available to the public and the Alaska Transportation Commission.
- 21.86.080. Termination. This section provides conditions for termination of the operation of the corporation and for reactivation of the corporation following a termination.
- 21.86.090. Premium Tax. This section places the premium tax structure for the corporation on the same basis as that applicable to a domestic corporation under AS 21.09.210.
- 21.86.100. Rates. This section provides for categories of risk, that rates may not be excessive, inadequate or unfairly discriminatory, lists items that may be considered in rate review and requires an annual review of rates.
- 21.86.110. Assessments on Insureds. This is a provision that is not usual to a stock corporation which in a sense is what we would have with the creation of this corporation. The State of Alaska would be the holding company. Assessment provisions are usual to reciprocal exchanges and to mutual insurance companies where the insuring entity is owned by the persons insured. It is a form of solvency protection in the event of a financial failure. Provision is made for extinguishment of the assessment provision when surplus reaches a certain level and limits the maximum assessment to 50% of an annual premium.
- 21.86.120. Refunds to Insureds. This section provides for participation by insured persons in the excess profits of the corporation in proportion to his earned premium for the particular year.
- 21.86.130. Payment of Premiums; Cancellation of Insurance. This section allows installment payment of premium, and for cancellation due to nonpayment of premium.
- 21.86.140. Sale of Corporation. This section provides that the corporation may be sold to a private corporation under conditions approved by the director.
- 21.86.200. Fund Established. This section establishes a loan fund in the Department of Commerce and Economic Development in the amount of \$30,000,000 with a 7% interest rate.
- 21.86.960. Applicability of Other Laws in this Title. This section makes this new Chapter 86 exclusive of the insurance code (Title 21) except as provided within the chapter. External insurance statutes applicable to the corporation are

AS 21.06.090. This section of law is the director's authority to promulgate regulations under AS 21.

AS 21.06.120. Director's authority to examine an insurer.

AS 21.06.140. Sets forth the procedure for examining an insurer.

AS 21.06.160. Provides that examination expense will be borne by the examined insurer.

AS 21.06.250. Fees and licenses section.

AS 21.09.180. Provides that the director is attorney for service of process.

AS 21.09.190. Provides for serving process and sets the time to plead.

AS 21.09.200. Requires an annual statement.

AS 21.09.250. Defines unlawful acts related to payment of commission to unlicensed producers.

AS 21.09.280. Sets forth the power to appoint general agents or managers.

AS 21.12.020(b)-(e). Deals with reinsurance.

AS 21.16. This chapter regulates assets and liabilities.

AS 21.21. This chapter deals with the regulation of investments.

AS 21.24. This chapter addresses the administration of deposits.

AS 21.36. This chapter regulates and prohibits unfair trade practices.

- 21.86.970. Meetings. This section provides that meetings of the corporation are not subject to AS 44.62.310 concerning state agency meetings being open to the public.

- 21.86.980. Definitions.

\*Section 3.

Provides for staggered terms for board members.

\*Section 4.

Effective date clause.

AVIATION EXPERIENCE ADMITTED INSURERS - 1970 TO 1980 (000) OMITTED  
STATE OF ALASKA

	1970		1971		1972		1973		1974		1975		1976		1977		1978		1979		1980		
	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	
ACTIA CASUALTY-SURETY CO	-	-	-	-	17	14	0	13	0	(1)	-	-	-	-	-	-	-	-	-	-	-	-	
AMERICAN INSURANCE CO	-	-	-	-	21	18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
AMERICAN LUMBER	-	-	-	-	-	-	-	-	-	-	-	-	-	-	82	128	87	(17)	-	-	-	-	
AMERICAN HOME INS CO	-	-	0	84	0	(84)	-	-	12	0	21	0	0	22	2	2	72	10	38	43	59	31	
AMERICAN PRODUCTS INSUR	-	-	-	-	1	0	-	-	-	-	1	0	-	-	-	-	-	-	-	-	-	-	
ARROWHART INS CO	-	-	-	-	11	6	2	0	3	1	112	311	0	(34)	0	(14)	-	-	-	-	-	-	
AVENUE	48	22	90	48	81	87	71	92	58	57	70	10	81	47	122	42	151	107	147	37	245	339	
CALIFORNIA INSURANCE CO	-	-	-	-	-	-	-	-	5	0	-	-	-	-	-	-	-	-	-	-	-	-	
COMMERCIAL INS CO	47	35	46	(14)	43	(10)	3	428	34	64	(22)	(2)	(15)	-	-	-	-	-	-	-	-	-	
FEDERAL NATIONAL INS CO	-	-	-	-	-	-	-	-	-	-	-	-	-	44	43	677	1,435	378	1,053	552	315	722	67
FRANKLIN AMERICAN INS CO	-	-	-	-	-	-	-	-	-	-	-	-	28	72	437	254	218	625	(8)	(24)	0	(2)	
GARLAND STAR	21	(1)	49	10	10	2	0	(2)	0	(1)	-	-	0	(10)	0	50	0	(4)	0	(2)	0	(2)	
GRAND CENTRAL INSURANCE CO	1	0	1	7	-	-	-	-	-	-	-	-	-	-	-	-	0	(1)	0	(1)	-	-	
GRACE CO	-	-	0	87	-	-	0	6	0	(2)	0	316	0	(3)	0	1	-	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	4	0	-	-	-	-	-	-	-	-	-	-	-	-	0	3	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	-	-	1	0	-	-	1	0	3	0	-	-	19	0	3	(3)	0	(1)	-	-	
GRAND CENTRAL INSURANCE CO	14	0	11	0	-	-	3	0	13	0	6	66	(1)	(3)	0	(3)	7	2	7	(6)	-	-	
GRAND CENTRAL INSURANCE CO	-	-	30	0	5	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	311	43	40	35	-	-	2	18	8	11	5	40	0	(1)	-	-	-	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	-	-	1	0	-	-	-	-	-	-	-	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	24	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	(1)	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	6	26	0	(1)	1	0	6	1	7	66	2	17	257	331	156	67	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	-	-	24	0	31	0	-	-	14	0	5	8	1	26	-	-	
GRAND CENTRAL INSURANCE CO	52	37	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	7	0	(1)	-	-	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	-	-	2	0	2	0	2	0	-	-	-	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	3	1	0	-	-	
GRAND CENTRAL INSURANCE CO	-	-	9	(1)	12	0	31	68	32	23	70	27	26	6	1	(1)	2	0	3	0	3	315	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	-	-	1	0	-	-	-	-	-	-	-	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	-	-	1	0	-	-	1	0	-	-	-	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	107	-	46	182	47	(1)	4	0	64	17	37	313	51	111	2	0	1	(1)	1	0	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	-	-	-	-	181	264	11	(25)	-	-	-	-	(58)	(6)	0	3	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	615	0	(22)	0	(6)	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	-	-	-	-	19	0	4	9	7	15	81	7	97	0	12	4	
GRAND CENTRAL INSURANCE CO	12	0	440	321	657	135	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	-	-	124	373	95	(37)	1	(4)	0	110	0	(10)	0	1	-	-	
GRAND CENTRAL INSURANCE CO	0	(4)	0	5	0	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	26	7	258	555	410	888	361	312	361	1,011	134	216	357	(443)	-	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	403	121	81	(8)	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	-	-	-	-	-	-	277	873	422	1,178	1,157	2,181	(175)	18	118	31	
GRAND CENTRAL INSURANCE CO	-	-	5	-	812	63	82	29	87	203	77	427	122	128	-	-	-	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	-	-	30	81	68	9	93	77	147	226	137	337	(8)	(22)	0	(6)	0	236	-	-	
GRAND CENTRAL INSURANCE CO	17	1	(8)	1	0	173	477	327	717	325	648	(6)	(175)	0	183	0	(93)	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	-	-	2	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	15	9	212	678	331	900	13	73	0	277	-	-	-	-	-	-	
GRAND CENTRAL INSURANCE CO	-	-	24	0	-	-	-	-	-	-	-	-	-	-	1	0	1	2,132	238	(1,30)	56	0	
GRAND CENTRAL INSURANCE CO	-	-	-	-	-	-	-	-	-	-	361	193	120	191	(1)	207	0	(132)	0	(3)	-	-	
GRAND CENTRAL INSURANCE CO	5	0	-	-	-	-	-	-	0	2	-	-	-	-	-	-	-	-	-	-	-	-	
TOTALS	723	132	1,218	511	1,765	1,018	1,437	1,843	1,787	2,821	2,351	3,134	1,377	2,781	2,197	4,016	2,676	6,427	1,212	277	1,453	1,222	
LOSS RATIO	14.3%		39.1%		62.2%		128.1%		162.3%		218.2%		202.2%		186.7%		240.2%		21.4%		82.7%		

11 YEAR LOSS RATIO

$11 \div EP = LR$

$25,671 \div 18,512 = 138.8\%$

EP = AVERAGE PREMIUM IL = INCURRED LOSSES  
 PREPARED BY: ALASKA DIVISION OF INSURANCE  
 DATE: 8-21-80 (625)



SPECIAL

RISK

# F. B. BEATTIE & CO., INC.

BROKERS

April 13, 1981

Mr. Don Koch  
State of Alaska  
Department of Commerce & Economic Development  
Pouch D  
Juneau, Alaska 99811

RE: ALASKA SENATE BILL 277  
F. B. BEATTIE & CO., INC.  
AVIATION LOSSES 1979/1980

Dear Mr. Koch:

We understand from some of our friends in Alaska that Alaska Senate Bill 277 was recently up for Committee review in the Alaska Legislature. According to the report given us, this review involved the discussion of Aviation Insurance loss figures as reported to the Alaska Insurance Department by various agencies and general agencies underwriting this business on behalf of Lloyd's.

In that regard we have been reminded that the Aviation Loss Report filed by F. B. Beattie & Co., Inc. for the year 1979 was incomplete in that it showed no losses for that year. Since that report was incomplete and because of the discussion of Senate Bill 277, we now hasten to correct the record.

Enclosed you will please find a corrected 1979 Alaska Loss Report for F. B. Beattie & Co., Inc., showing losses on all classes of business underwritten by this company in 1979, including Aviation business. We are also enclosing our 1980 report, showing the same information by category for last year. We trust that this report letter with enclosures will give you a more accurate review of our current Alaska Aviation Insurance picture for reference in connection with the subject Senate Bill.

If you have any questions concerning these loss statistics, please do not hesitate to check with us so that we may assist as appropriate.

Yours very truly,

FBB/p

F. B. Beattie, Jr.

Enclosures

✓ BCC RUISS NEVILLE - Brady & Associates

ALASKA ANNUAL STATEMENT OF SURPLUS LINE BUSINESS TRANSACTED 19.80

F. B. BEATTIE & CO., INC.

#693

(Name of Surplus Line Broker)

(License Number)

Exhibit 1-A

LOSSES PAID AND INCURRED

Line of Business	Actual Losses Paid to Policyholders (deduct salvage)	Plus Claim Emp.	Total Losses Inc.	Reserves
1. Fire & Allied				
(a) Habitational	0	0	0	0
(b) Homeowners	0	0	0	0
(c) Commercial	13,388.14	1,237.40	14,625.54	1,456.21
2. Inland Marine (DIC, Earthquake, ARBR)	43,321.96	21,820.02	65,141.98	2,473,056.96
3. Ocean Marine	0	0	0	0
4. Professional Liability				
(a) Medical	0	0	0	0
(b) Attorneys	0	0	0	0
(c) Architects & Engineers	?	?	?	?
(d) Other	?	?	?	?
5. General Liability	31,540.59	2,375.00	33,915.59	250,000.00
6. Auto Liability				
(a) Private Passenger	0	0	0	0
(b) Commercial	0	0	0	0
7. Auto Physical Damage				
(a) Private Passenger	0	0	0	0
(b) Commercial	0	0	0	0
8. Workmen's Compensation				
(a) Aviation	38,366.04	1,709.50	40,075.54	21,717.77
(b) Other	0	0	0	0
9. Aircraft - All Perils	1,586,287.61	36,072.74	1,622,360.55	3,117,172.16
10. Other (Identify)	0	0	0	0
TOTAL	1,712,904.54	63,214.66	1,776,119.20*	5,863,403.10

1,776,119.20 \*

TOTAL LOSSES/EXPENSES/RESERVES INCURRED \$7,639,522.30

ALASKA ANNUAL STATEMENT OF SURPLUS LINE BUSINESS TRANSACTED . 1970

F. B. BEATTIE & CO., INC.  
(Name of Surplus Line Broker)

#693  
(License Number)

Exhibit 1-A

LOSSES PAID AND INCURRED

Line of Business	Actual Losses Paid to Policyholders (deduct salvage)	Plus Claim Expn.	Total Losses Inc.	Reserves
1. Fire & Allied				
(a) Habitational	0	0	0	0
(b) Homeowners	0	0	0	0
(c) Commercial	615.37	97.20	712.57	105,183.78
2. Inland Marine (DIC, Earthquake, ARBR)	78,935.10	3,940.92	82,876.02	375,607.09
3. Ocean Marine	0	0	0	0
4. Professional Liability				
(a) Medical	0	0	0	0
(b) Attorneys	?	?	?	?
(c) Architects & Engineers	?	?	?	?
(d) Other	?	?	?	1,880.00
5. General Liability	0	259.30	259.30	27,419.88
6. Auto Liability				
(a) Private Passenger	0	0	0	0
(b) Commercial	0	0	0	0
7. Auto Physical Damage				
(a) Private Passenger	0	0	0	0
(b) Commercial	0	0	0	0
8. Workmen's Compensation				
(a) Aviation	43,424.11	1,621.80	45,045.91	128,197.70
(b) Other	0	0	0	0
9. Aircraft - All Perils	282,616.48	18,722.50	300,883.98	580,822.67
10. Other (Identify)	0	0	0	0
<b>TOTAL</b>	<b>405,136.06</b>	<b>24,641.72</b>	<b>429,777.78*</b>	<b>1,219,111.12</b>

429,777.78 \*

TOTAL LOSSES/EXPENSES/RESERVES INCURRED \$1,648,888.90

ROSEMURGY SEA

APR 30 IQ  
TO JUANITA BROWN  
ROLLINS BURDICK & HUNTER  
ANCHORAGE

AVIATION LIABILITY CLAIMS ADJUSTED & RESERVED BY ROSEMURGY & CO  
BY NUMBER OF CLAIMS WE MEAN EACH INDIVIDUAL KILLED OR INJURED IN  
AN AIRPLANE ACCIDENT IN ALASKA. THIS DOES NOT INCLUDE HULL  
CLAIMS:

1978	40 CLAIMS	TOTAL PD \$17,942,769	O'S RESERVES \$10,000
1979	22 CLAIMS	TOTAL PD \$ 1,626,404	O'S RESERVES \$6,255,000
1980	68 CLAIMS	TOTAL PD \$ 7,931,207	O'S RESERVES \$7,062,500

WE TRUST THIS INFORMATION IS OF ASSISTANCE TO YOU.

REGARDS

R J ROSEMURGY  
♦  
RBH ALASKA AHG  
V

*Can Document : P Desarry*

# REED STENHOUSE

Reed Stenhouse Inc. of Alaska  
International Insurance Brokers  
4794 Business Park Blvd., Suite 1  
Anchorage, Alaska 99503  
907 274-0694 Telex 090-25-214

April 30, 1981

Mr. Donald P. Koch  
Chief of Market Surveillance  
Division of Insurance  
State of Alaska  
Department of Commerce  
and Economic Development  
Pouch D  
Juneau, Alaska 99811

Re: Alaska Surplus Lines Filings

Dear Don:

It has been brought to my attention that we did not report losses for aviation hulls and liabilities in our 1979 and 1980 surplus lines filings. The following figures represent losses paid by aviation hull and liability underwriters on behalf of our clients and not otherwise reported for these policy years in question:

1979 Aviation hulls - \$167,800.00  
1980 Aviation hulls - \$119,522.23

I hope this is of some assistance to you in compiling your premium and loss summaries.

Sincerely,



David A. Blackwood  
Senior Vice President

cc: Mr. Russ Neville  
Brady and Associates

RECEIVED  
DIV. 17  
MAY 1 10 10 AM '81

ALASKA DEPT. OF  
**ROLLINS BURDICK  
HUNTER**

April 28, 1981

Mr. Don Koche  
State of Alaska  
Department of Commerce  
Division of Insurance  
Pouch D  
Juneau, Alaska 99811

Re: Insured Aviation Losses

Dear Mr. Koche:

I am taking this opportunity to give you some further information insofar as aviation losses in the State of Alaska. Currently, the information that the State of Alaska has shows that Dougan, Eader, Reynolds & Wheller wrote \$838,000 in premium in 1978 and \$325,000 premium in 1979 for aviation insurance. In these two years no losses were reported.

Rollins Burdick Hunter is now affiliated with Dougan, Eader, Reynolds & Wheller and we have requested that they review their files as to losses in 1978 and 1979. We have been advised that in 1978 they paid losses of \$1,037,089, and in 1979 losses amounted to \$305,349.

This gives us total losses in the years 1978, 1979 and 1980 of \$1,426,438, with premium generated of \$1,218,000, with a loss ratio of 117%.

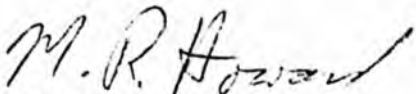
I am in hopes that this further information will help the legislature in their consideration of Senate Bill 277, and in understanding why the

Mr. Don Koche  
April 28, 1981  
Page 2

insurance cost to the aviation community in the State of Alaska have risen as they have in the past few years.

Sincerely,

ROLLINS BURDICK HUNTER OF ALASKA, INC.

  
Michael R. Howard

MRH/tsh

cc: Russ Neville  
Brady & Associates  
310 K Street  
Anchorage, Alaska 99501

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§ 21.06.180

INSURANCE

§ 21.06..

Sec. 21.06.180. Hearings. (a) The director may hold hearings for any purpose within the scope of this title considered by him to be necessary.

(b) The director shall hold a hearing if required by a provision of this title, or upon written demand by a person aggrieved by an act, threatened act or failure of the director to act, or by a report, regulation or order of the director (other than an order for the holding of a hearing, or an order on hearing or under it). A demand shall specify the grounds to be relied upon at the hearing as a basis for the relief. Unless postponed by mutual consent or for good cause shown, the hearing shall be held within 30 days after receipt by the director of the written demand.

(c) If within the 30-day period the director does not either (1) grant the hearing, or (2) issue his order refusing the hearing, as to the previous report, regulation, or order as to which the person so claims to be aggrieved, the hearing shall be considered to have been refused. (§ 1 ch 120 SLA 1966)

Sec. 21.06.190. Stay of action. (a) A demand for a hearing received by the director before the effective date of an order issued by him or within 10 days after an order is delivered, shall stay the effectiveness of the order pending the hearing and an order made thereon, except as to action taken or proposed (1) under an order on hearing, or (2) under an order under and supplemental to an order on hearing, or (3) under an order based upon impairment of assets or unsound financial condition of an insurer.

(b) If an automatic stay is not provided for and the director after receipt of a written request for a stay fails to grant it, the person aggrieved may apply to the superior court for a stay of the director's proposed action. (§ 1 ch 120 SLA 1966)

Sec. 21.06.200. Notice of hearing. Not less than 20 days in advance the director shall give notice of the time and place of the hearing, stating the matters to be considered at the hearing. If the persons to be given notice are not specified in the provision under which the hearing is held, the director shall give notice to all persons whose pecuniary interests are to be directly and immediately affected by the hearing. (§ 1 ch 120 SLA 1966)

Sec. 21.06.210. Hearing procedure. (a) The director shall allow a party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of his interest, and to have subpoenas issued by the director to compel attendance of witnesses and production of evidence in his behalf.

(b) The director shall permit to become a party to the hearing by intervention, if timely, any person who was not an original

party to the proceeding and whose pecuniary interests are to be directly and immediately affected by the director's order made upon the hearing.

(c) Formal rules of pleading or evidence need not be observed at a hearing.

(d) Upon written request seasonably made by a party to the hearing and at that person's expense, the director shall cause a full stenographic record of the proceedings to be made by a competent reporter. If transcribed, a copy of the stenographic record shall be furnished to the director, without cost to the director or the state, and shall be a part of the director's record of the hearing. If transcribed a copy of the stenographic record shall be furnished to any other party to the hearing at the request and expense of the other party. If no stenographic record is made or transcribed, the director shall prepare an adequate record of the evidence and of the proceedings.

(e) Upon written request of a party to a hearing filed with the director within 30 days after an order made pursuant to a hearing has been mailed or delivered to the persons entitled to receive it, the director may grant a rehearing or reargument of the matters involved in the hearing. Notice of the rehearing or reargument shall conform to the requirements of § 200 of this chapter. (§ 1 ch 120 SLA 1966)

**Sec. 21.06.220. Order on hearing.** (a) In conducting the hearing the director shall sit in a quasi-judicial capacity. Within 30 days after termination of the hearing, rehearing, or reargument, the director shall make his order on hearing, covering matters involved in the hearing, rehearing or reargument, and shall give a copy of the order to the same persons given notice of the hearing.

(b) The order shall contain a concise statement of the facts found by the director, his conclusions, and the matters required by § 100 of this chapter.

(c) The order may affirm, modify, or nullify a previous action or may constitute the taking of new action within the scope of the notice of hearing. (§ 1 ch 120 SLA 1966)

**Sec. 21.06.230. Appeals from the director.** A person aggrieved by an order of the director may appeal the order to the superior court, using procedures provided by court rule. (§ 1 ch 120 SLA 1966)

**Sec. 21.06.240. Hearings inapplicable.** The hearing and appeal procedures provided for in §§ 180—230 of this chapter do not apply to matters covered by ch. 39 of this title. (§ 1 ch 120 SLA 1966)

**Sec. 21.06.250. Fees and licenses.** (a) The director shall collect required fees in advance. The fees are as follows:

## Chapter 78. Rehabilitation and Liquidation.

Section	Section
10. Jurisdiction of delinquency proceedings	150. Claims of nonresidents against domestic insurers
20. Commencement of delinquency proceedings	160. Claims against foreign insurers
30. Injunctions	170. Form of claim
40. Grounds for rehabilitation	180. Priority of certain claims
50. Grounds for liquidation	190. Attachment and garnishment of assets
60. Grounds for conservation—Foreign insurers	200. Uniform Insurers Liquidation Act
70. Grounds for conservation—Alien insurers	210. Deposit of money collected
80. Grounds for ancillary liquidation	220. Exemption from fees
90. Order of rehabilitation	230. Borrowing on pledge of assets
100. Order of liquidation, domestic insurers	240. Date rights fixed on liquidation
110. Order of liquidation, alien insurers	250. Voidable transfers
120. Order of conservation or ancillary liquidation of foreign or alien insurers	260. Priority of claims for compensation
130. Conduct of delinquency proceedings against domestic and alien insurers	270. Offsets
140. Conduct of delinquency proceedings against foreign insurers	280. Allowance of certain claims
	290. Time to file claims
	300. Report and petition for assessment
	310. Order and levy of assessment
	320. Assessment prima facie correct
	330. Definitions

**Sec. 21.78.010. Jurisdiction of delinquency proceedings.** (a) The court is vested with exclusive original jurisdiction of delinquency proceedings under this chapter, and is authorized to make all necessary and proper orders to carry out the purposes of this chapter.

(b) Delinquency proceedings under this chapter constitute the sole and exclusive method of liquidating, rehabilitating, reorganizing or conserving an insurer, and no court may entertain a petition for the commencement of the proceedings unless it has been filed in the name of the state on the relation of the director.

(c) An appeal shall lie to the supreme court from an order granting or refusing rehabilitation, liquidation, or conservation, and from every other order in delinquency proceedings having the character of a final order as to the particular portion of the proceedings embraced therein. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.020. Commencement of delinquency proceedings.** The director shall commence the proceedings by application to the court for an order directing the insurer to show cause why the director should not have the relief prayed for. On the return of the order to show cause, and after a full hearing, the court shall either deny the application or grant the application, together with other relief which the nature of the case and the interest of the policyholders, creditors, stockholders, members, subscribers or the public may require. (§ 1 ch 120 SLA 1966)

Sec. 21.78.030. Injunctions. (a) Upon application by the director for an order to show cause, or at any time thereafter, the court may without notice issue an injunction restraining the insurer, its officers, directors, stockholders, members, subscribers, agents and all other persons from the transaction of its business or the waste or disposition of its property until the further order of the court.

(b) The court may at any time during a proceeding under this chapter issue injunctions or orders which may be considered necessary to prevent interference with the director or the proceeding, or waste of the assets of the insurer, or the commencement or prosecution of actions, or the obtaining of preferences, judgments, attachments or other liens, or the making of any levy against the insurer or against its assets or any part of its assets.

(c) No bond may be required of the director as a prerequisite for the issuance of an injunction or restraining order under this section. (§ 1 ch 120 SLA 1966)

Sec. 21.78.040. Grounds for rehabilitation. The director may apply to the court for an order appointing him as receiver of and directing him to rehabilitate a domestic insurer upon one or more of the following grounds. That the insurer

- (1) is impaired or insolvent;
- (2) has refused to submit any of its books, records, accounts or affairs to reasonable examination by the director;
- (3) has concealed or wrongfully removed records or assets or otherwise violated AS 21.69.390;
- (4) has failed to comply with an order of the director to make good an impairment of capital or surplus or both;
- (5) has transferred or attempted to transfer substantially its entire property or business, or has entered into a transaction the effect of which is to merge substantially its entire property or business in that of any other insurer without having first obtained the written approval of the director;
- (6) is found, after examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to its members, subscribers, or stockholders, or to the public;
- (7) has an officer, director, or manager who has refused to be examined under oath, concerning its affairs, for which purpose the director is authorized to conduct and to enforce by all appropriate and available means an examination under oath in another state or territory of the United States, in which the officer, director or manager may then presently be, to the full extent permitted by the laws of the other state or territory, this special authorization considered;
- (8) has been or is the subject of an application for the appoint-

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ment of a receiver, trustee, custodian or sequestrator of the insurer or its property otherwise than under the provisions of this title, but only if the appointment has been made or is imminent and its effect is or would be to oust the courts of this state of jurisdiction;

(9) has consented to such an order through a majority of its directors, stockholders, members or subscribers; or

(10) has failed to pay a final judgment rendered against it in this state upon any insurance contract issued or assumed by it, within 30 days after the judgment became final or within 30 days after the time for taking an appeal has expired, or within 30 days after dismissal of an appeal before final termination, whichever date is the later. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.050. Grounds for liquidation.** The director may apply to the court for an order appointing him as receiver (if his appointment as receiver is not then in effect) and directing him to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusteed assets in this state, regardless of whether or not there has been a prior order directing him to rehabilitate the insurer, upon any of the grounds specified in § 40 of this chapter, or if the insurer

(1) has ceased transacting business for a period of one year, or

(2) is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute an action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian or sequestrator under any law except this title. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.060. Grounds for conservation — Foreign insurers.** The director may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets in this state, of a foreign insurer upon any of the following grounds:

(1) upon any of the grounds specified in §§ 40 or 50 of this chapter; or

(2) upon the ground that its property has been sequestrated in its domiciliary sovereignty or in any other sovereignty. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.070. Grounds for conservation—Alien insurers.** The director may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets within this state, of an alien insurer upon any of the following grounds:

(1) upon any of the grounds specified in §§ 40 or 50 of this chapter;

(2) upon the ground that the insurer has failed to comply within the time designated by the director, with an order made by him to make good an impairment of its trusteed funds; or

(3) upon the ground that the property of the insurer has been sequestered in its domiciliary sovereignty or elsewhere. (§ 1 ch 120 SLA 1966)

Sec. 21.78.080. Grounds for ancillary liquidation. The director may apply to the court for an order appointing him as ancillary receiver of and directing him to liquidate the business of a foreign insurer having assets, business or claims in this state upon the appointment in the domiciliary state of the insurer of a receiver, liquidator, conservator, rehabilitator or other officer by whatever name called for the purpose of liquidating the business of the insurer. (§ 1 ch 120 SLA 1966)

Sec. 21.78.090. Order of rehabilitation. (a) An order to rehabilitate a domestic insurer shall require the director to take immediate possession of the property of the insurer and to conduct its business, and to take steps toward removal of the causes and conditions which have made rehabilitation necessary as the court may direct.

(b) If at any time the director considers that further efforts to rehabilitate the insurer would be useless, he may apply to the court for an order of liquidation.

(c) The director, or an interested person upon due notice to the director, at any time may apply to the court for an order terminating the rehabilitation proceedings and permitting the insurer to resume possession of its property and the conduct of its business, but the order may not be made or entered except when, after a hearing, the court has determined that the purposes of the proceeding have been fully accomplished. (§ 1 ch 120 SLA 1966)

Sec. 21.78.100. Order of liquidation, domestic insurers. (a) An order to liquidate the business of a domestic insurer shall require the director to take immediate possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in his own name as director of insurance or in the name of the insurer, as the court may direct, and to give notice to all creditors who may have claims against the insurer to present the claims.

(b) The director may apply for and secure an order dissolving the corporate existence of a domestic insurer upon his application for an order of liquidation of the insurer or at any time after the order has been granted. (§ 1 ch 120 SLA 1966)

Sec. 21.78.110. Order of liquidation, alien insurers. An order to liquidate the business of a United States branch of an alien insurer

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having trusteed assets in this state shall be in the same terms as those prescribed for domestic insurers, except that the assets of the business of the United States branch shall be the only assets included in the order. (§ 1 ch 120 SLA 1966)

Sec. 21.78.120. Order of conservation or ancillary liquidation of foreign or alien insurers. (a) An order to conserve the assets of a foreign or alien insurer shall require the director to take immediate possession of the property of the insurer in this state and to conserve it, subject to the further direction of the court.

(b) An order to liquidate the assets in this state of a foreign insurer shall require the director to take immediate possession of the property of the insurer in this state and to liquidate it subject to the orders of the court and with due regard to the rights and powers of the domiciliary receiver, as provided in this chapter. (§ 1 ch 120 SLA 1966)

Sec. 21.78.130. Conduct of delinquency proceedings against domestic and alien insurers. (a) When under this chapter a receiver is to be appointed in delinquency proceeding for a domestic or alien insurer, the court shall appoint the director as the receiver. The court shall order the director immediately to take possession of the assets of the insurer and to administer the assets under orders of the court.

(b) As a domiciliary receiver, the director shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of the insurer, wherever located, as of the date of entry of the order directing him to rehabilitate or liquidate a domestic insurer or to liquidate the United States branch of an alien insurer domiciled in this state, and he shall have the right to recover the same and reduce the same to possession; except that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are herein prescribed for ancillary receivers appointed in this state as to assets located in this state.

(c) The filing or recording of the order directing possession to be taken, or a certified copy of the order, in any office where instruments affecting title to property are required to be filed or recorded shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly filed or recorded.

(d) The director as domiciliary receiver shall be responsible for the proper administration of all assets coming into his possession or control. The court may at any time require a bond from him or his deputies if considered desirable for the protection of the assets.

(e) Upon taking possession of the assets of an insurer, the

domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take steps authorized by this chapter for the purpose of rehabilitating, liquidating or conserving the affairs or assets of the insurer.

(f) In connection with delinquency proceedings, the director may appoint one or more special deputies to act for him and he may employ counsel, clerks and assistants which he considers necessary. The compensation of the special deputies, counsel, clerks or assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of the funds or assets of the insurer. Within the limits of duties imposed upon them, special deputies shall possess all the powers given to, and in the exercise of those powers shall be subject to all of the duties imposed upon, the receiver with respect to the proceedings. (§ 1 ch 120 SLA 1966)

Sec. 21.78.140. Conduct of delinquency proceedings against foreign insurers. (a) When under this chapter an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this state, the court shall appoint the director as ancillary receiver. The director shall file a petition requesting the appointment on the grounds set out in § 80 of this chapter,

(1) if he finds that there are sufficient assets of the insurer located in this state to justify the appointment of an ancillary receiver; or

(2) if 10 or more persons resident in this state having claims against the insurer file a petition with the director requesting the appointment of the ancillary receiver.

(b) The domiciliary receiver for the purpose of liquidating an insurer domiciled in a reciprocal state shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of the insurer located in this state, and he shall have the immediate right to recover balances due from local agents and to obtain possession of any books and records of the insurer found in this state. He shall also be entitled to recover the other assets of the insurer located in this state, except that upon the appointment of an ancillary receiver in this state, the ancillary receiver shall during the ancillary receivership proceedings have the sole right to recover the other assets. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this state, and shall pay the necessary expenses of the proceedings. He shall promptly transfer all remaining assets

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to the domiciliary receiver. Subject to these provisions, the ancillary receiver and his deputies shall have the same powers and be subject to the same duties with respect to the administration of the assets as a receiver of an insurer domiciled in this state.

(c) The domiciliary receiver of an insurer domiciled in a reciprocal state may sue in this state to recover assets of the insurer to which he may be entitled under the laws of this state. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.150. Claims of nonresidents against domestic insurers.** (a) In a delinquency proceeding begun in this state against a domestic insurer, claimants residing in reciprocal states may file claims either with the ancillary receivers, if any, in their respective states, or with the domiciliary receiver. The claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in reciprocal states may either:

(1) be proved in this state; or

(2) if ancillary proceedings have been commenced in the reciprocal states, may be proved in those proceedings; if a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and opportunity to appeal and be heard is afforded the domiciliary receiver of this state, as provided in § 160 of this chapter with respect to ancillary proceedings in this state, the final allowance of the claim by the courts in the ancillary state shall be accepted in this state as conclusive as to its amount and its priority, if any, against special deposits or other security located in the ancillary state. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.160. Claims against foreign insurers.** (a) In a delinquency proceeding in a reciprocal state against an insurer domiciled in that state, claimants against the insurer who reside in this state may file claims either with the ancillary receiver, if any, appointed in this state, or with the domiciliary receiver. The claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in this state may either

(1) be proved in the domiciliary state as provided by the law of that state; or

(2) if ancillary proceedings have been commenced in this state, be proved in those proceedings; in the event that a claimant elects to prove his claim in this state, he shall file his claim with the ancillary receiver and shall give notice in writing to the receiver in the domiciliary state, either by registered mail or by personal service at least 40 days before the date set for hearing; the notice

shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the priorities asserted, if any; if the domiciliary receiver within 30 days after the giving of notice gives notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of his intention to contest the claim, he shall be entitled to appear or to be represented in any proceeding in this state involving adjudication of the claim; the final allowance of the claim by the courts of this state shall be accepted as conclusive as to its amount and its priority, if any, against special deposits or other security located in this state. (§ 1 ch 120 SLA 1966)

Sec. 21.78.170. Form of claim. (a) All claims against an insurer against which delinquency proceedings have been begun shall set out in reasonable detail the amount of the claim, or the basis upon which the amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. The claims shall be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and shall be supported by documents which may be material to the claims.

(b) All claims filed in this state shall be filed with the receiver, whether domiciliary or ancillary, in this state, on or before the last date of filing as specified in this chapter.

(c) Within 10 days of the receipt of a claim, or within a further period which the court may for good cause shown fix, the receiver shall report the claim to the court, specifying in the report his recommendation with respect to the action to be taken. Upon receipt of the report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court specifies, give notice which the court determines to the persons who appear to the court to be interested therein. All notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver.

(d) At the hearing, all persons interested shall be entitled to appear and the court shall enter an order allowing, allowing in part, or disallowing the claim. The order shall be an appealable order. (§ 1 ch 120 SLA 1966)

Sec. 21.78.180. Priority of certain claims. (a) In a delinquency proceeding against an insurer domiciled in this state, claims owing to residents of ancillary states shall be preferred claims if like claims are preferred under the laws of this state. Claims owing to residents or nonresidents shall be given equal priority of payment from general assets regardless of where the assets are located.

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**Sec. 21.78.210. Deposit of money collected.** The money collected by the director in a proceeding under this chapter shall be from time to time deposited in one or more state or national banks, savings banks, and in the case of the insolvency or voluntary liquidation of a depository which is an institution organized and supervised under the laws of this state, the deposits shall be entitled to priority of payment on an equality with any other priority given by the banking laws of this state. The director may in his discretion deposit the money or any part of it in a national bank or as a trust fund. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.220. Exemption from fees.** The director shall not be required to pay a fee to a public officer in this state for filing, recording, issuing a transcript or certificate or authenticating a paper or instrument pertaining to the exercise by the director of any of the powers or duties conferred upon him under this chapter, whether or not the paper or instrument is executed by the director or his deputies, employees or attorneys of record and whether or not it is connected with the commencement of an action or proceeding by or against the director, or with the subsequent conduct of the action or proceeding. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.230. Borrowing on pledge of assets.** For the purpose of facilitating the rehabilitation, liquidation, conservation or dissolution of an insurer under this chapter, the director may, subject to the approval of the court, borrow money and execute, acknowledge and deliver notes or other evidences of indebtedness and secure the repayment of the same by the mortgage, pledge, assignment, transfer in trust, or hypothecation of any or all of the property, whether real, personal or mixed, of the insurer, and the director subject to the approval of the court shall have power to take any and all other action necessary and proper to consummate the loan and to provide for its repayment. The director shall be under no obligation personally or in his official capacity to repay a loan made under this section. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.240. Date rights fixed on liquidation.** The rights and liabilities of the insurer and of its creditors, policyholders, stockholders, members, subscribers and all other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date on which the order directing the liquidation of the insurer is filed in the office of the clerk of the court which made the order, subject to the provisions of this chapter with respect to the rights of claimants holding contingent claims. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.250. Voidable transfers.** (a) A transfer of, or lien upon, the property of an insurer which is made or created within

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four months before the granting of an order to show cause under this chapter with the intent of giving to creditor a preference or of enabling him to obtain a greater percentage of his debt than another creditor of the same class and which is accepted by the creditor having reasonable cause to believe that the preference will occur, shall be voidable.

(b) Each director, officer, employee, stockholder, member, subscriber and any other person acting on behalf of the insurer who is concerned in any act or deed and each person receiving thereby any property of the insurer or the benefit of it shall be personally liable therefor and shall be bound to account to the director.

(c) The director as receiver in a proceeding under this chapter may avoid a transfer of or lien upon the property of an insurer which a creditor, stockholder, subscriber or member of the insurer might have avoided and may recover the property transferred unless the person was a bona fide holder for value before the date of the entering of an order to show cause under this chapter. The property or its value may be recovered from anyone who has received it except a bona fide holder for value as herein specified. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.260. Priority of claims for compensation.** (a) Compensation actually owing to employees other than officers of an insurer, for services rendered within three months before the commencement of a proceeding against the insurer under this chapter, but not exceeding \$500 for each employee, shall be paid before the payment of any other debt or claim, and in the discretion of the director may be paid as soon as practicable after the proceeding has been commenced; except that at all times the director shall reserve the funds which will in his opinion be sufficient for the expenses of administration.

(b) The priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of the employees. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.270. Offsets.** (a) In all cases of mutual debts or mutual credits between the insurer and another person in connection with an action or proceeding under this chapter, the credits and debts shall be set off and the balance only shall be allowed or paid, except as provided in (b) of this section.

(b) No offset may be allowed in favor of a person if

(1) the obligation of the insurer to the person would not at the date of the entry of a liquidation order or otherwise, as provided in § 240 of this chapter, entitle him to share as a claimant in the assets of the insurer;

(2) the obligation of the insurer to the person was purchased by or transferred to the person with a view of its being used as an offset; or

(3) the obligation of the person is to pay an assessment levied against the members of a mutual insurer, or against the subscribers of a reciprocal insurer, or is to pay a balance upon the subscription to the capital stock of a stock insurer. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.280. Allowance of certain claims.** (a) No contingent and unliquidated claim may share in a distribution of the assets of an insurer which has been adjudicated to be insolvent by an order made under this chapter, except that the claim shall be considered, if properly presented, and may be allowed to share if

(1) the claim becomes absolute against the insurer on or before the last day for filing claims against the assets of the insurer; or

(2) there is a surplus and the liquidation is thereafter conducted upon the basis that the insurer is solvent.

(b) If an insurer has been adjudicated to be insolvent a person who has a cause of action against an insured of the insurer under a liability insurance policy issued by the insurer has the right to file a claim in the liquidation proceeding, regardless of the fact that the claim may be contingent, and the claim may be allowed

(1) if it may be reasonably inferred from the proof presented upon the claim that the person would be able to obtain a judgment upon the cause of action against the insured;

(2) if the person furnishes suitable proof, unless the court for good cause shown otherwise directs, that no further valid claim against the insurer arising out of his cause of action other than those already presented can be made; and

(3) if the total liability of the insurer to all claimants arising out of the same act of its insured is no greater than its maximum liability would be were it not in liquidation.

(c) No judgment against the insured taken after the date of entry of the liquidation order shall be considered in the liquidation proceedings as evidence of liability, or of the amount of damages, and no judgment against an insured taken by default, or by collusion before the entry of the liquidation order may be considered as conclusive evidence in the liquidation proceedings, either of the liability of the insured to the person upon the cause of action or of the amount of damages to which the person is entitled.

(d) No claim of a secured claimant may be allowed at a sum greater than the difference between the value of the claim without security and the value of the security itself as of the date of the entry of the order of liquidation or other date set by the court for determining rights and liabilities as provided in § 240 of this chapter unless the claimant surrenders his security to the director, in which event the claim shall be allowed in the full amount for which it is valued. (§ 1 ch 120 SLA 1966)

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§ 21.78.290

INSURANCE

§ 21.78.310

**Sec. 21.78.290. Time to file claims.** (a) If upon the entry of an order of liquidation under this chapter or at any time thereafter during liquidation proceedings the insurer is clearly not solvent, the court shall, upon hearing after notice it considers proper, make and enter an order adjudging the insurer to be insolvent.

(b) After the entry of the order of insolvency, regardless of prior notice that may have been given to creditors, the director shall notify all persons who may have claims against the insurer to file the claims with him, at a place and within the time specified in the notice, or that the claims shall be forever barred. The time specified in the notice shall be as fixed by the court for filing claims and may not be less than six months after the entry of the order of insolvency. The notice shall be given in the manner and for the reasonable period of time that may be ordered by the court. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.300. Report and petition for assessment.** Within three years after the date of the entry of an order of rehabilitation or liquidation of a domestic mutual insurer or a domestic reciprocal insurer, the director may make and file his report and petition to the court setting out

- (1) the reasonable value of the assets of the insurer;
- (2) the liabilities of the insurer to the extent thus far ascertained by the director;
- (3) the aggregate amount of the assessment, if any, which the director considers reasonably necessary to pay all claims, the costs and expenses of the collection of the assessments and the costs and expenses of the delinquency proceedings in full;
- (4) any other information relative to the affairs or property of the insurer that the director considers material. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.310. Order and levy of assessment.** (a) Upon the filing and reading of the report and petition provided for in § 300 of this chapter, the court, ex parte, may order the director to assess all members or subscribers of the insurer who may be subject to the assessment, in the aggregate amount the court finds reasonably necessary to pay all valid claims as may be timely filed and proved in the delinquency proceedings, together with the costs and expenses of levying and collecting assessments and the costs and expenses of the delinquency proceedings in full. The order shall require the director to assess each member or subscriber for his proportion of the aggregate assessment, according to the reasonable classification of the members or subscribers and formula which may be made by the director and approved by the court.

(b) The court may order additional assessments upon the fil-

21.78.320

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§ 21.78.330

INSURANCE

§ 21.78.330

of the order and petition referred to in (c) of this section is made upon him

(1) fails to appear at the time and place specified in the order, judgment shall be entered against him as prayed for in the petition; or

(2) appears in the manner and form required by law in response to the order, the court shall hear and determine the matter and enter a judgment in accordance with its decision.

(e) The director may collect the assessment through any other lawful means. (§ 1 ch 120 SLA 1966)

**Sec. 21.78.330. Definitions.** In this chapter

(1) "impairment" or "insolvency" means that the capital of a stock insurer or the surplus of a mutual or reciprocal insurer, shall be considered to be impaired and the insurer shall be considered to be insolvent, when the insurer is not possessed of assets at least equal to all liabilities and required reserves together with its total issued and outstanding capital stock if a stock insurer, or the minimum surplus if a mutual or reciprocal insurer required by this title to be maintained for the kind or kinds of insurance in which it is then authorized to transact;

(2) "insurer" means a person, firm, corporation, association or aggregation of persons doing an insurance business and subject to the insurance supervisory authority of or to liquidation, rehabilitation, reorganization or conservation by the director or the equivalent insurance supervisor, or official of another state;

(3) "delinquency proceeding" means a proceeding commenced against an insurer under this chapter for the purpose of liquidating, rehabilitating, reorganizing or conserving the insurer;

(4) "state" means a state of the United States and the District of Columbia and Puerto Rico;

(5) "foreign country" means territory not in a state;

(6) "domiciliary state" means the state in which an insurer is incorporated or organized, or in the case of an insurer incorporated or organized in a foreign country, the state in which the insurer, having become authorized to do business in the state, has at the commencement of delinquency proceedings, the largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholders or policyholders and creditors in the United States, and the insurer is considered to be domiciled in that state;

(7) "ancillary state" means a state other than a domiciliary state;

(8) "reciprocal state" means a state other than this state in which in substance and effect the provisions of the Uniform Insurers Liquidation Act, as defined in § 200 of this chapter, are in

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SENATE BILL NO. 277

Title Relating to aviation insurance

Requested by Senate Labor & Commerce, Finance Committees

Date 3/12/81

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection and Management

BRU, Program, or Subprogram(s) Affected Treasury Management

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>						

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		30.0				
<del>EXCESS BUDGET</del>						
OTHER (Specify Fund Source)						
OPPORTUNITY COST/INTEREST LOST		1.5	1.5	1.5	1.5	1.5

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill creates the Aviation Indemnity Corporation of Alaska. It's purpose is to furnish aircraft owners and operators with adequate liability/hull damage insurance. The bill also creates the Aviation Liability Revolving Loan Fund which can make loans to the Corporation to provide necessary surplus. The Dept. of Revenue shall purchase all notes offered by the fund up to \$30 million.

The first line indicates that the \$30 million of notes bought, while an investment, are illiquid assets and are not available for appropriation for other purposes. The opportunity cost/interest lost is the difference between the 7% interest rate that the fund pays on loans and the earnings rate for the General Fund currently. It is assumed that the \$30 million in loans are outstanding throughout the period.

*Anselm C. Staack*

IV. DATE March 26, 1981

PREPARED BY Anselm C. Staack, Treasury Comptroller

AGENCY Dept. of Revenue/Treasury Division

Original: Legislative Finance

PHONE 465-2351

cc: Budget and Management

Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB-277

Title An act relating to aviation insurance; and Providing for an effective date.

Requested by Eliason

Date 3/12/81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Public Protection

BRU. Program. or Subprogram(s) Affected Division of Insurance

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	7	4	1	1	1
300 CONTRACTUAL	0	3	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	30000	0	0	0	0
TOTAL	0	30,010.	4	1	1	1

FUNDING (Thousands of Dollars)

GENERAL FUND	0	30,010.	4	1	1	1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Travel Funds heavy initially to monitor start up operations  
contractual funds for hearing to implement new chapter 86.

The \$30 Million in 700 for fy 82 is the fund established in proposed  
section 21.86.200(b)

IV. DATE 3/17/81

PREPARED BY Kenneth C. Moore, Director of Insurance  
AGENCY Department of Commerce & Economic Development  
PHONE 465-2515

Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)

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# COMMITTEE REPORT

## SENATE

FURTHER: Finance

3/13/81

Date: April 13, 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 278  
savings associations

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
- and recommends \_\_\_\_\_  new title
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

Victor Rodes

Bob Mulcahy

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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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Robert King No Rec

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Bob Mulcahy

CHAIRMAN



Official Business

# Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

## COMMITTEE MINUTES

April 14th, 1981

The Senate Committee on Labor and Commerce held a committee meeting, April 13th, addressing the following bills:

SB 278 "An act relating to Savings Associations"

SB 279 "An act relating to the General powers of the Department of Commerce and Economic Development"

SB 280 "An act relating to Credit Unions"

The meeting was called to order at 3:07pm and SB 278 was the first order of business. After a brief discussion, Sen Rodey moved that SB 278 move with individual recommendations;

Willis Kirkpatrick, Director of the Division of Banking Securities, testified in favor of SB 279; Sen Rodey moved to move SB 279 with individual recommendations;

SB 280 was next on the agenda, and Willis Kirkpatrick testified in favor; Senator Rodey entertained a motion to move the bill. The bills were moved from committee with individual recommendations. The meeting was adjourned at 3:16 pm.



Official Business

# Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

April 13, 1981

## COMMITTEE MEETING MINUTES

The meeting was called to order at 3:07 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 278 "An Act relating to savings associations."

Chairman Mulcahy entertained a motion to move SB 278 out of Committee.

Next on the agenda was SB 279 "An Act relating to the general powers of the Department of Commerce and Economic Development."

Mr. Kirkpatrick, Director, Division of Banking testified in favor of SB 279. (tape reading 025 to 092)

Chairman Mulcahy entertained a motion to move SB 279 out of committee.

Next on the agenda was SB 280 "An Act relating to credit unions."

Mr. Kirkpatrick continued his testimony, addressing SB 280. (tape reading 100 to 134)

Chairman Mulcahy entertained a motion to move SB 280 out of committee.

The meeting was adjourned by Chairman Mulcahy at 3:16 P.M.



ALASKA STATE LEGISLATURE  
SENATE BANKING COMMITTEE  
POUGH V, JUNEAU 99811

SECTIONAL ANALYSIS: SB 278 "An Act relating to savings associations."

This bill proposes changes in chapter 30 of title 6 of the Alaska Statutes, the Alaska Savings Association Act. The changes are intended to provide parity for state-chartered savings associations.

\* Section 1: Adds a declaration of policy which provides that the division of banking may, under certain conditions, allow our state-chartered savings associations the same powers possessed by state-chartered savings associations in other states.

\* Section 2: Adds two powers to the list of general powers of savings associations: (1) conversion from a mutual to a stock association; and (2) conversion from a stock association to a commercial bank. The language is patterned after the language contained in AS 06.15.350 (9) and AS 06.45.240. For analogous provisions, see AS 06.05.462, AS 06.15.300-310 and AS 06.30.760-775. Although quite simple in form, the language leaves wide latitude for an association and the division of banking to work out the details of an appropriate conversion.

\* Section 3: Accomplishes two changes: (1) removes dollar limits on residential loans thus providing parity with the federals; and (2) amends the loans-to-one-borrower-limitation; the language comes from the Model Savings Association Act.

\* Section 4: Accomplishes three changes: (1) increases the loan-to-value limit from 80 percent to 90 percent on one-to-four family residences (parity with the federals); (2) extends the loan term to 40 years (parity with the federals); and (3) simplifies the insurance provisions to recognize the expanded role played in Alaska by AHFC.

\* Section 5: Deletes reference to a loan term limit of 30 years, and specifies that loans for one-to-four family residences must be for units located within Alaska.

\* Section 6: Adds a new section which specifies that an association may make loans for multi-family and commercial real estate with a loan-to-value limit up to 90 percent and a maturity not to exceed 40 years (parity with federals).

\* Section 7: Expands the loaning capability of state-chartered associations by allowing them to make "other loans" in excess of 30 percent of assets provided there is a commitment for take-out by a secondary investor. This change will continue to assure the safety of the depositors while allowing the associations the opportunity to take advantage of unique Alaskan institutions like AIDA. This section also deletes reference to dollar limits, and increases allowable percentage investment in mobile home mortgages.

\* Section 8: Adds a section defining lending standards. The language comes from the Model Savings Association Act.

\* Section 9: Expands the associations' lending capabilities in the area of property improvement and consumer loans. Deletes reference to dollar limits. The changes are intended to provide parity with the federals.

\* Section 10: Simplifies language regarding servicing (parity with the federals).

\* Section 11: Technical amendment

\* Section 12: Rewrites the section on investment in service corporations to provide parity with the federals.

\* Section 13: Makes changes in the definition section of the chapter; increases the loan term limit to 40 years, and lengthens the time allowed for payback of the principal on an interim construction loan.

\* Section 14: Adds two new definitions in keeping with charges proposed in this bill.

\* Section 15: Repeals unduly restrictive and redundant sections of the chapter, at the direction of the division of banking.



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

COMMITTEE MINUTES: March 25th, 1981

Senator Mulcahy opened the meeting with all members present and introduced SB 278 as the first item of business.

Sen. Rodey provided a synopsis of the bill explaining the need for expanding the powers necessary to establish Savings and Loan Associations with equal parity of those Federally chartered institutions.

Willis Kirkpatrick, Director of the Division of Banking and Securities, addressed the issue of Savings and Loan Associations, expressed the support of his Department for the bills, and provided a section by section analysis of SB 278. He commended the work done by the Senate Committee on Banking and the resultant bills which have emerged from their efforts.

Mr. Eddy Turner, President of Peninsula Savings and Loan Association, Soldotna, expressed support and appreciation of the banking industry for these bills.

Sen. Fahrenkamp posed a question about Federal controls over the banking industry and whether the text of these bills would put us in conformity with the Federal regulations.

Sen. Rodey responded that these bills represent everything necessary to allow the State of Alaska to maintain control over our banking industry.

Sen. Mulcahy asked for any further public testimony, and related that we would continue to research these bills. Without any further testimony the meeting was adjourned.

and shall furnish full control records to the home office. (§ 14(b) ch 49 SLA 1961)

**Sec. 06.30.230. Records to be kept by agents.** Each agent of an association shall keep an original record of each transaction of business of the association and shall report promptly to the home office. Complete detailed permanent records of the transactions are not required to be maintained at the agency. (§ 14(c) ch 49 SLA 1961)

**Sec. 06.30.235. Forms and accounting practices to be approved by commissioner.** Every association shall use the forms and observe the accounting principles and practices the commissioner requires. (§ 14(d) ch 49 SLA 1961)

**Sec. 06.30.240. Books to be closed at least semiannually.** Every association shall close its books at the close of business on June 30 and December 31 of each year, or more often if authorized for all associations by the commissioner. (§ 14(e) ch 49 SLA 1961)

**Sec. 06.30.245. Misdescription of assets.** No association by any system of accounting or device of bookkeeping shall, either directly or indirectly, enter any of its assets upon its books in the name of a person or under a title or designation that is not truly descriptive of the assets. (§ 14(f) ch 49 SLA 1961)

**Sec. 06.30.250. Charging off or setting up reserves against bad assets.** The commissioner, after his determination of value, may order that assets in the aggregate, to the extent that they have depreciated in value, be charged off, or that a special reserve or reserves equal to the depreciation in value be set up by transfers from undivided profits or reserves. (§ 14(g) ch 49 SLA 1961)

**Sec. 06.30.255. Bonds and other obligations to be carried at actual cost.** The bonds or other interest-bearing obligations purchased by an association shall not be carried on its books at more than the actual cost. (§ 14(h) ch 49 SLA 1961)

**Sec. 06.30.260. Real estate to be carried at amount invested in same.** An association shall not carry real estate on its books at a sum in excess of the total amount invested by the association in the real estate, including advances, costs, and improvements but excluding accrued but uncollected interest. (§ 14(i) ch 49 SLA 1961)

**Sec. 06.30.265. Appraisal of real estate owned and that securing delinquent loans.** Every association shall appraise each parcel of real estate at the time of its acquisition. The report of each appraisal shall be submitted in writing to the board of directors and shall be kept in the records of the association. The commissioner may require the appraisal of real estate securing loans which are delinquent more than 12 months. (§ 14(j) ch 49 SLA 1961)

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§ 06.30.270

BANKS AND FINANCIAL INSTITUTIONS

§ 06.30.280

**Sec. 06.30.270. Maintenance of membership records.** (a) Every mutual association shall maintain membership records showing the name and address of the member, the status of the member as a savings account holder, or an obligor, or a savings account holder and obligor, and the date of membership. In the case of account-holding members, the association shall obtain a card containing the signature of the holder of the account or his authorized representative and shall preserve the signature card in the records of the association.

(b) Every stock association shall maintain a stock book and a stock transfer book. (§ 14(k) ch 49 SLA 1961; am § 16 ch 164 SLA 1978)

*Effect of amendment.* — The 1978 "mutual" near the beginning of that amendment designated the provisions of subsection, and added subsection (b). This section as subsection (a), inserted

**Sec. 06.30.275. Reproduction and destruction of records.** An association may have its records copied or reproduced by any photostatic, photographic or micro-filming process which correctly and permanently copies, reproduces or forms a medium for copying or reproducing the original record on a film or other durable material, and the association may thereafter dispose of the original record. The copy or reproduction is an original record for all purposes and shall be treated as an original record in all courts and administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification or certified copy of a copy or reproduction reproduced from a film record shall be considered a facsimile, exemplification or certified copy of the original record. (§ 14(1) ch 49 SLA 1961)

**Sec. 06.30.280. General powers of associations.** Every association has the powers enumerated, authorized, and permitted by this chapter and such other rights, privileges, and powers incidental to or reasonably necessary for the accomplishment of the objects and purposes of the association. Every association may

- (1) sue and be sued, complain and defend in court;
- (2) have a corporate seal, which may be affixed by imprint, facsimile or otherwise;
- (3) adopt and amend bylaws as provided in this chapter;
- (4) appoint officers, agents and employees as its business requires and fix their compensation;
- (5) receive savings and repay or invest the same;
- (6) declare and pay dividends;
- (7) loan money and sell any of its notes or other evidences of its indebtedness, together with the collateral securing the same;
- (8) collect or protect promissory notes or bills of exchange, owned or held as collateral by the association;
- (9) collect or compromise debts due to it and in so doing to apply to the indebtedness the savings accounts of the member debtors and to

receive as collateral or otherwise, other securities, property or property rights of any kind or nature;

(10) procure insurance of its mortgages from a mortgage insurer authorized to do business in this state;

(11) provide for life, health and casualty insurance for officers and employees and adopt and operate reasonable bonus plans and retirement benefits for officers and employees;

(12) borrow money and pledge or mortgage its properties and securities in connection with them;

(13) conduct business in this state or elsewhere as may be permitted by this chapter;

(14) deposit money and securities in any bank or other like depository;

(15) sell money orders and travelers checks;

(16) act as an escrow agent;

(17) let safe deposit boxes and other receptacles for the safekeeping of personal property;

(18) dissolve and wind up its business. (§ 23(a) ch 49 SLA 1961; am § 17 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote the second sentence.

Sec. 06.30.285. Association may act as fiscal agent. An association which is a member of a Federal Home Loan Bank may act as fiscal agent of the United States, and, when so designated by the Secretary of the Treasury, shall perform, under regulations which he prescribes, the duties as fiscal agent of the United States, and may act as agent for an instrumentality of the United States and as agent of this state or an instrumentality of the state. (§ 29 ch 49 SLA 1961)

Sec. 06.30.290. Operating contracts must be approved by commissioner. No association may make an operating or management contract with any person, except with the approval of the commissioner. Existing operation or management contracts may not be extended, renewed, or transferred without approval of the commissioner. (§ 46(c) ch 49 SLA 1961)

Sec. 06.30.295. Fixed rate, fixed term accounts. No association may issue, sell, negotiate, or advertise for sale either to members or the public any type of investment security other than savings accounts. An association may accept accounts bearing a definite rate of return for fixed periods of time when its board of directors has adopted a resolution providing for the issuance of fixed rate, fixed term accounts and those accounts are insured by the Federal Savings and Loan Insurance Corporation. (§ 22 ch 49 SLA 1961; am § 18 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "may issue" for "shall issue" in the first sentence, rewrote the second sentence, which formerly read

"No association may issue investment securities other than savings accounts to members or the public."

Sec. 06.30.285. Association may act as fiscal agent. An association which is a member of a Federal Home Loan Bank may act as fiscal agent of the United States, and, when so designated by the Secretary of the Treasury, shall perform, under regulations which he prescribes, the duties as fiscal agent of the United States, and may act as agent for an instrumentality of the United States and as agent of this state or an instrumentality of the state. (§ 29 ch 49 SLA 1961)

Section 305. Limited liability company. In 1978, ch 164 SLA.

Sec. 06.30.285. Association may act as fiscal agent. An association which is a member of a Federal Home Loan Bank may act as fiscal agent of the United States, and, when so designated by the Secretary of the Treasury, shall perform, under regulations which he prescribes, the duties as fiscal agent of the United States, and may act as agent for an instrumentality of the United States and as agent of this state or an instrumentality of the state. (§ 29 ch 49 SLA 1961)

Sec. 06.30.295. Fixed rate, fixed term accounts. No association may issue, sell, negotiate, or advertise for sale either to members or the public any type of investment security other than savings accounts. An association may accept accounts bearing a definite rate of return for fixed periods of time when its board of directors has adopted a resolution providing for the issuance of fixed rate, fixed term accounts and those accounts are insured by the Federal Savings and Loan Insurance Corporation. (§ 22 ch 49 SLA 1961; am § 18 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "may issue" for "shall issue" in the first sentence, rewrote the second sentence, which formerly read

in accordance with this section is thereby liable for estate, inheritance or succession taxes which may be due this state. (§ 46(h) ch 49 SLA 1961)

**Sec. 06.30.420. Powers of attorney on savings accounts.** An association or federal savings and loan association may continue to recognize the authority of an attorney in fact authorized in writing to manage or to make withdrawals either in whole or in part from the savings account of a member until it receives written notice or is on actual notice of the revocation of his authority. For the purposes of this section, written notice of the death or adjudication of incompetency of the member constitutes written notice of revocation of the authority of his attorney. The institution is not liable for damages, penalty or tax by reason of any payment made under this section. (§ 46(i) ch 49 SLA 1961)

**Sec. 06.30.425. Accounts subject to garnishment and execution.** Savings accounts of associations are subject to garnishment, attachment, execution or similar process to the same extent as are savings accounts in federal savings and loan associations. Without inquiry into the validity of garnishment or similar process, an association or federal savings and loan association may pay funds in excess of \$1,000 into a court or to a qualified official making demand for it under process or on a judgment pursuant to process. (§ 46(l) ch 49 SLA 1961)

**Sec. 06.30.430. Statute of limitations on savings accounts.** (a) All claims are barred in this state on an inactive savings account. For the purposes of this section, "inactive savings account" means a savings account in which there has been an absence for at least 10 years of (1) additions to the account, other than dividend creditings, (2) withdrawals from the account, and (3) written communication from the holder of the account.

(b) Every association shall upon request submit to the department a report of inactive savings accounts. The executive officer of the association is responsible for furnishing the report. The department shall proceed to recover the property through escheat proceedings in the manner provided in AS 09.50.070 — 09.50.160.

(c) A service charge may be made by the association for reasonable costs incurred in maintaining inactive accounts. (§ 46(m) ch 49 SLA 1961; am § 23 ch 164 SLA 1978)

**Effect of amendment.** — The 1978 amendment added subsections (b) and (c).

**Sec. 06.30.435. Bonus Plans.**

Repealed by § 45 ch 164 SLA 1978.

**Editor's note.** — The repealed section derived from § 30, ch. 49, SLA 1961.

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Sec. 06.30.500. Investment in first mortgages. Subject to the provisions of this chapter and regulations adopted under it, an association may invest in deeds of trust on mortgages in a first lien position on real property, including leasehold estates subject only to reservations, easements and restrictions of record, subject to the following limitations:

(1) No investment in mortgages executed by any one mortgagor may exceed in the aggregate two per cent of the assets of the association at the time the investment is made, or \$90,000 on a single-family dwelling or \$90,000 per unit on a multiple-family dwelling or other improved realty, whichever is greater, or other maxima established by the commissioner by regulation.

(2) No investment in any one mortgage may exceed two per cent of the assets of the association at the time the investment is made, or as specified in (1) of this section, whichever is greater, or more than 80 per cent of the appraised value of a one-to-four family residence securing a conventional loan; however, an association may make 95 per cent of appraised value loans if the term of the loan does not exceed 30 years, and the loan is secured by an amortized mortgage, deed of trust, or other instrument under the terms of which the installment payments are sufficient to amortize the entire principal of the loan within the period ending on the date of its maturity and, in addition, the loan is either

(A) insured by mortgage insurance in an amount equal to 20 per cent of the loan issued by a mortgage insurer authorized to do business in Alaska; or

(B) secured in addition to the amortized mortgage by a savings account held by the lending institution in an amount equal to 10 per cent of the loan or other collateral acceptable to the department.

(3) Except as provided in (1) of this section, no investment may be made in a conventional loan secured by a mortgage on a one-to-four family residence unless the mortgaged property is located inside this state and the mortgage has a maturity not exceeding 30 years from the date the loan is made.

(4) No investment may be made in a conventional loan if the aggregate unpaid principal of all conventional loans exceeds 80 per cent of deposits plus all borrowings from the Federal Home Loan Bank.

(5) The loan may not be made to a director, officer, or employee except when secured by home property owned and occupied by the director, officer, or employee.

(6) No investment may be made in a mortgage upon a leasehold unless

(A) the leasehold has an unexpired term of not less than two years beyond the maturity of the loan;

(B) the principal amount of the mortgage loan is not in excess of 80 per cent of the appraised value of the leasehold; and

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§ 06.30.505 BANKS AND FINANCIAL INSTITUTIONS § 06.30.515

(C) provision is made for completed amortization of the loan within an unexpired term by period payments as the department may prescribe. (§ 23(c) ch 49 SLA 1961; am § 27 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

**Sec. 06.30.505. Other loans.** (a) An association may use for loans other than those specified in § 500 of this chapter an aggregate amount not exceeding 30 per cent of the assets at the time of use, or a larger amount with the approval of the commissioner as follows:

(1) home loans, whether direct-reduction or not, which exceed \$90,000 each, regardless of where the home property securing the loan is situated;

(2) [deleted]

(3) home loans of any amount, which are not direct-reduction home loans, regardless of where the home property securing the loan is situated;

(4) other real estate loans, whether amortized or unamortized, regardless of amount or location of real estate securing the loan.

(b) The power referred to in (a) of this section is referred to as the "30 per cent of assets lending power." A subsequent reduction of savings liability does not affect outstanding loans made under the 30 per cent of assets lending power.

(c) An association may, subject to regulations adopted by the commissioner, invest not to exceed 10 per cent of its assets in loans secured by mobile homes.

(d) The loans referred to in (a) of this section may not exceed 80 per cent of appraised value of the property securing the loans except as provided in §§ 500 and 510 of this chapter. (§ 23(d) ch. 49 SLA 1961; am §§ 28, 29 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment in subsection (a), inserted paragraph (2), which read "home loans of any amount, which are direct-reduction home loans secured by home property situated beyond the regular lending area." The amendment also added subsections (c) and (d).  
"other than those specified in § 500 of this chapter" in the introductory language, substituted "\$90,000" for "\$45,000" in paragraph (1), and deleted former

**Sec. 06.30.510. Insured and guaranteed loans.** An association may make secured or unsecured loans which are insured or guaranteed in any manner and in any amount by the United States or instrumentality of the United States or by this state or instrumentality of this state. (§ 23(e) ch 49 SLA 1961)

**Sec. 06.30.515. Dealing with successors in interest.** If a loan is made under §§ 500 — 510 of this chapter and the ownership of the real estate security or any part of it vests in a person other than the party originally executing the security instrument, an association may deal with the

successor in interest without notice to the original party, except where there is a written agreement to the contrary, and may forbear to sue or may extend time for payment of the secured debt or otherwise modify its terms without discharging or in any way affecting the original liability of the party upon the debt. (§ 23(f) ch 49 SLA 1961)

§ 06.30.520. Property improvement and small loans. An association may make property improvement loans to property owners for maintenance, repair, modernization, improvement, and equipment of their properties. A loan may be made with or without security, except that a loan without security may not exceed \$4,500. An association may not make property improvement loans exceeding 25 per cent of its assets. An association may make small loans to members with or without security not exceeding \$2,500. However, an association may not make small loans exceeding 15 per cent of its assets. The total amount of loans made under this section may not exceed 25 per cent of the assets of the association. (§ 23(g) ch 49 SLA 1961)

Sec. 06.30.525. Power to purchase loans and to lend upon loans. The power to make loans includes (1) the power to purchase loans of any type that the association may make and (2) the power to make loans upon the security of loans of any type that the association may make. (§ 23(h) ch 49 SLA 1961)

Sec. 06.30.530. Participation loans. An association may participate with other lenders in loans of any type that an association may otherwise make, if the other lenders are instrumentalities of or corporations owned wholly or in part by the United States or this state, or are associations organized under the laws of this state, or are associations or corporations insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, or are life insurance companies with assets in excess of \$100 million, or are employees' or self-employed persons' trusts qualified and exempt from federal income tax under the laws of the United States. (§ 23(i) ch 49 SLA 1961)

Sec. 06.30.535. Sale of loans. An association may sell without recourse any loan, including its participating interest in a loan, at any time, if the total dollar amount of the loan sold, including the sale, within the calendar year beginning January 1 immediately preceding the date of the sale, does not exceed a sum equal to 25 per cent of the dollar amount of all loans and participating interests in loans held by the association at the beginning of the calendar year. However, the commissioner, upon application of the association showing good cause, may authorize the sale of a greater amount during a calendar year. Notwithstanding the limitations of this section, loans may be assigned with recourse to the Federal Home Loan Bank of which the association is a member. (§ 23(j) ch 49 SLA 1961)

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(3) the second mortgage agreement contains a provision that the association is entitled to be subrogated to all rights of the borrower under the first mortgage;

(4) the total aggregate amount of such loans outstanding does not exceed 10 per cent of the association's assets. (§ 24 ch 49 SLA 1961; am § 30 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment added subsection (b).

**Sec. 06.30.560. Mortgage to secure existing or simultaneous debt or future advances.** A mortgage that can be made by an association under this chapter may be made by an association to secure an existing debt or obligation, to secure a debt or obligation created simultaneously with the execution of the mortgage, to secure future advances necessary to protect the security, and to secure future advances to be made at the option of the parties. The existing or simultaneous debt or obligation or the future advances shall, from the time the mortgage is filed for record as provided by the law of this state, be secured by the mortgage equally with, and have the same priority over the rights of all persons who after the recording of the mortgage acquire any right or lien in the mortgaged real estate, as the debts and obligations secured thereby at the time of the filing of the mortgage for record; except that (1) the mortgagor or his successor in title may file a notice for record and it shall be recorded limiting the amount of optional future advances secured by the mortgage to not less than the amount actually advanced at the time of the filing, if a copy of the notice is filed with the mortgagee, and (2) if an optional future advance is made by the mortgagee to the mortgagor or his successor in title after written notice of a mortgage, lien, or claim against the real property which is junior to the mortgage, then the amount of the advance is junior to the mortgage, lien, or claim of which written notice was given. (§ 24 ch 49 SLA 1961)

**Sec. 06.30.565. Association may pay charges for protection of real estate loan.** An association may pay taxes, assessments, insurance premiums and other similar charges for the protection of its real estate loans. These payments shall be added to the unpaid balance of the loan and are equally secured by the first lien on the property. (§ 24 ch 49 SLA 1961)

**Sec. 06.30.570. Association may require life insurance.** An association may require life insurance to be assigned as additional collateral upon a real estate loan. If life insurance is assigned, the association has a first lien upon the policy and may advance premiums on it, and the premium advances shall be added to the unpaid balance of the loan and are equally secured by the first lien on the property. (§ 24 ch 49 SLA 1961)

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(2) real estate accepted by the association in satisfaction of any obligation;

(3) real estate purchased for sale, or improvement and sale, upon a contract, at the cost of land and improvements, when the contract is executed concurrently with or before the purchase, except that the transaction is subject to all the limitations provided in this chapter with respect to real estate loans;

(4) real estate acquired by the association in exchange for real estate owned by the association;

(5) real estate acquired by the association in connection with salvaging the value of property owned by the association;

(6) the purchase and development of real estate for the purpose of producing income or for sale or for improvement and the erection of buildings for sale or rental purposes, except that the amount invested may not exceed an amount equal to the sum of its reserves and undivided profits;

(7) stock of a wholly owned subsidiary corporation having as its exclusive activity the ownership and management of the association's real property.

(c) Title to real estate shall be taken and held in the name of the association and title shall immediately be recorded in accordance with the law. (§ 26(b) ch 49 SLA 1961; am §§ 31, 32 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment inserted "capital stock, surplus" and "including buildings and appurtenances" in the first sentence of subsection (c), and added paragraph (7) to subsection (c). C.J.S. reference. — 9 C.J.S. Banks and Banking § 163.

**Sec. 06.30.616. Investment in service corporation.** (a) An association may, subject to the approval of the commissioner, invest in, hold, and sell the capital stock and other obligations of

(1) any service corporation organized under the laws of this state if the entire capital stock of the service corporation is available for purchase only by one or more savings and loan or banking institutions having their home offices in this state, to perform accounting or similar functions or servicing loans primarily for those institutions;

(2) any service corporation whose activities consist of purchasing and disposing of loans and making each investment as specifically authorized by federal and state law for savings and loan and banking institutions.

(b) An association may invest upon approval by the commissioner in a service corporation an amount not to exceed five per cent of its total assets at the time of the investment, except the total investment under this section and § 615 of this chapter may not exceed the sum of its capital stock, surplus, undivided profits and reserve accounts. (§ 33 ch 164 SLA 1978)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 278  
 Title An Act relating to State chartered savings associations  
 Requested by Senate Labor and Commerce Date 3/19/81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development  
 Program Category Affected Consumer Protection  
 BRU, Program, or Subprogram(s) Affected Financial Institutions

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 3/19/81 PREPARED BY Willis F. Kirkpatrick, Director of Banking  
 AGENCY Department of Commerce & Economic Development  
 PHC NE 465-2521

Original. Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

*Willis F. Kirkpatrick*

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Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### SUMMARY SB 279:

The existing statute authorizes the Commissioner of the Dept. of Comm&Econ Dev to allow financial institutions to exercise any of the powers conferred upon a Federally chartered bank, trust company, savings associations, Federally chartered credit unions, or other federally chartered institution doing business in this State, which are subject to the regulations of the US Comptroller of the Currency, the Fed. Reserve Board, the Federal Home Loan Bank, FDIC, or the National Credit Union Administrator.

The proposed amendment addresses the limitations which may be imposed upon these chartered financial institutions. These institutions shall be subject to any of the limitations imposed on their Federal counterparts, if the Commissioner finds that limitations

- (1). serve the Public convenience and advantage; and
- (2). Equalize and maintain the quality of competition between State chartered and Federally chartered Institutions;

SB 279 further adds that the authority granted to the Commissioner by this section may not be limited by law unless that law expressly refers to this section.





Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### COMMITTEE MINUTES

April 14th, 1981

The Senate Committee on Labor and Commerce held a committee meeting, April 13th, addressing the following bills:

SB 278 "An act relating to Savings Associations"

SB 279 "An act relating to the General powers of the Department of Commerce and Economic Development"

SB 280 "An act relating to Credit Unions"

The meeting was called to order at 3:07pm and SB 278 was the first order of business. After a brief discussion, Sen Rodey moved that SB 278 move with individual recommendations;

Willis Kirkpatrick, Director of the Division of Banking Securities, testified in favor of SB 279; Sen Rodey moved to move SB 279 with individual recommendations;

SB 280 was next on the agenda, and Willis Kirkpatrick testified in favor; Senator Rodey entertained a motion to move the bill. The bills were moved from committee with individual recommendations. The meeting was adjourned at 3:16 pm.



Official Business

# Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

April 13, 1981

## COMMITTEE MEETING MINUTES

The meeting was called to order at 3:07 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 278 "An Act relating to savings associations."

Chairman Mulcahy entertained a motion to move SB 278 out of Committee.

Next on the agenda was SB 279 " An Act relating to the general powers of the Department of Commerce and Economic Development."

Mr. Kirkpatrick, Director, Division of Banking testified in favor of SB 279. (tape reading 025 to 092)

Chairman Mulcahy entertained a motion to move SB 279 out of committee.

Next on the agenda was SB 280 "An Act relating to credit unions."

Mr. Kirkpatrick continued his testimony, addressing SB 280. (tape reading 100 to 134)

Chairman Mulcahy entertained a motion to move SB 280 out of committee.

The meeting was adjourned by Chairman Mulcany at 3:16 P.M.

examination or investigation has been completed. All assessments shall be paid to and received by the department by each institution within 30 days after receipt of notice of the assessment.

(c) Any financial institution which fails to make the payments required by the commissioner under (a) and (b) of this section within the time specified is subject to a penalty of not more than \$100 each day it is late. The penalty, together with the amount due under (a) of this section, may be recovered in a civil action brought by the department. (§ 42 ch 169 SLA 1978)

Sec. 06.01.020. General powers of department. The commissioner may by regulation authorize financial institutions, except licensees subject to ch. 20 of this title, to exercise any of the powers conferred upon a federally chartered bank, trust company, savings association, or other federally chartered institution doing business in this state which is subject to the regulations of the United States Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation or the successor or successors of them, if the commissioner finds that the exercise of the power both:

- (1) serves the public convenience and advantage; and
- (2) equalizes and maintains the quality of competition between state-chartered financial institutions and corresponding federally chartered financial institutions. (§ 42 ch 169 SLA 1978)

Sec. 06.01.030. Orders and injunctions; notice and hearings; regulations. (a) Whenever it appears to the commissioner that a person has engaged in an act or practice in violation of any provision of this title or of a regulation adopted under it, the commissioner may

(1) if he considers it to be in the public interest, issue an order directing the person to stop the act or practice; reasonable notice and an opportunity for a hearing must be given before issuing the order; however, the commissioner may issue a temporary order pending the hearing which remains in effect until 10 days after the hearing is held and which becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this title or a regulation adopted under it; upon a proper showing, the department is entitled to the appropriate remedy, and a receiver or conservator may be appointed for the defendant or the defendant's assets; the commissioner is not required to post a bond.

(b) Except as provided in (a) of this section, the department shall give public notice of each proposed action, but it is not required to hold a hearing before taking the action unless it receives written opposition to the proposed action. Written opposition must be filed with the department within the time specified by the department. In cases

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## Article 1. Licensing.

## Section

10. License required  
20. Applicability  
30. Bond  
40. Annual license fee

## Section

50. Application for license; fee  
60. Place of business  
70. Investigation: Qualifications for license  
80. Revocation and suspension of license

**Sec. 06.40.010. License required.** Except as provided in § 20 of this chapter, no person may engage in the business of entering into premium finance agreements on insurance sold in this state or risks located in this state, either directly or indirectly, or otherwise act as a premium finance company in this state without being licensed by the department. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.020. Applicability.** This chapter does not apply to

(1) any insurer authorized to transact business in this state with respect to premiums on policies which the insurer issues;

(2) any bank, trust company, savings association, or other financial institution subject to the other chapters of this title and authorized to transact business in this state that does not possess or acquire any right, title or interest with respect to the insurance policy for which the premiums are financed other than in the proceeds of it in the event of loss;

(3) the inclusion of a charge for insurance in connection with an installment sale in accordance with AS 45.10, and

(4) persons licensed under AS 21.27 financing only their own accounts if they are in compliance with AS 21.36.122. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.030. Bond.** (a) The applicant shall file with the application a bond to be approved by the department in which the applicant shall be the obligor, in the sum of \$5,000 with one or more sureties. The bond shall be for the use of the state and any person who may have a cause of action against the obligor under this chapter. The bond shall state that the obligor will faithfully conform to and abide by the provisions of this chapter and of all regulations lawfully made by the department, and will pay to the state and to any person all money that may become due or owing to the state or to the person from the applicant under this chapter. The aggregate liability of the surety for all breaches of the bond condition may not exceed the penal sum of the bond, and the bond may be cancelled by the surety on 30 days notice to the commissioner.

(b) If at any time the commissioner finds that the bond is unsatisfactory for any reason, he may require the licensee to file, within 10 days after the receipt of a written demand for it, an additional bond

**Sec. 06.40.040. Annual license fee.** On or before December 20 of each year, each licensee shall pay a fee of \$200 to the department as an annual license fee for the next succeeding calendar year. At that same time the licensee shall file with the department a new bond which complies with § 30 of this chapter. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.050. Application for license; fee.** (a) Application for a license under this chapter shall be in writing and in the form prescribed by the department.

(b) All reasonable investigation expenses incurred by the department in processing an application for approval of a proposed premium finance company shall be charged to and paid by the applicant in accordance with AS 06.01.010. At the time of submitting the application to the department, the applicant shall pay to the department \$500 in partial payment of the investigation expenses incurred by the department. If the investigation expenses incurred by the department do not exceed \$500, the remainder shall be promptly refunded to the applicant.

(c) The person to whom the license may be or is issued shall file sworn answers to interrogatories required by the commissioner. The commissioner shall have authority, at any time, to require the licensee fully to disclose the identity of all directors, partners, officers and managerial employees, and he may, in his discretion, refuse to issue or continue a license in the name of any firm or corporation if he determines that any officer, employee, stockholder or partner of the firm or corporation who may materially influence the licensee's conduct does not meet the requirements of this chapter.

(d) All premium finance licenses shall continue in force until suspended or revoked, subject to the payment by the licensee of the annual license fee and to the licensee being in compliance with other provisions of this chapter. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.060. Place of business.** (a) A licensee may maintain only one place of business under his license. The department may issue more than one license to the same licensee upon application and compliance by the licensee with the provisions of this chapter governing the original issuance of a license.

(b) Whenever a licensee changes his place of business to another location, he shall give written notice to the department. The department shall attach the written notice of the change to the license together with the date. Thereafter, the licensee may operate the business under the license at the new location. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.070. Investigation: Qualifications for license.** (a) Upon the filing of an application and payment of the investigation fee specified in § 50(b) of this chapter, the

received the application, at the request of the applicant, give the applicant a full hearing.

(b) The commissioner shall issue a license to an applicant when he is satisfied that the applicant

(1) is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(2) has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied; and

(3) if a corporation, is a corporation incorporated under the laws of this state or a foreign corporation authorized to transact business in this state. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.080. Revocation and suspension of license.** The commissioner may revoke or suspend the license of any licensee when, upon completion of an investigation, the commissioner determines that

- (1) the license issued to the company was obtained by fraud;
- (2) there was misrepresentation in the application for the license;
- (3) the holder of the license has otherwise shown himself untrustworthy or incompetent to act as a premium finance company; or
- (4) the licensee has violated any of the provisions of this chapter. (§ 1 ch 170 SLA 1978)

**Article 2. Operations**

Section	Section
90. Advertising of misleading statements prohibited, disclosure of interest	120. Maximum interest permitted; Prepayment, refund
100. Record keeping; examination of records	130. Delinquency charge
110. Contents of premium finance agreement	140. Cancellation of policy; requirements
	150. Return of unearned premium

**Sec. 06.40.090. Advertising of misleading statements prohibited; disclosure of interest.** (a) No person may advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner, any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action which is false, misleading, or deceptive.

(b) The licensee or lender shall state the interest rate charged in a premium finance agreement fully and clearly as an annual percentage rate. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.100. Record keeping; examination of records.** (a) Every licensee shall maintain records of its premium finance transactions.

licensee. A" records pertaining to insurance contracts financed by Alaska residents shall be maintained or readily available in the licensee's office. The commissioner may, at any reasonable time, require the licensee to bring records pertaining to premium finance agreements to his office for examination. The expenses incurred by the department in conducting an examination shall be charged to and paid by the licensee in accordance with AS 06.01.010.

(b) Every licensee shall preserve its records of premium finance transactions, including cards used in a card system, for at least three years after making the final entry relating to any premium finance agreement. The preservation of records in photographic form constitutes compliance with this requirement.

(c) Each licensee shall, on or before March 15 of each year, file a report with the department containing information as the department may reasonably require concerning the business and operations during the preceding calendar year of each licensed place of business conducted by the licensee. The report shall be made under oath, shall be in the form prescribed by the department, and shall be kept available as a public record. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.110. Contents of premium finance agreement.** (a) A premium finance agreement shall

- (1) be dated, signed by the borrower, and the printed portion of it shall be in at least eight-point type;
- (2) contain the name and place of business of the insurance agent negotiating the related insurance policy, the name and residence or the place of business of the borrower as specified by him, the name and place of business of the licensee to which payments are to be made, an identification of the insurance policy involved and the amount of the premium charged for it; and

- (3) set out the following items where applicable:
  - (A) the total amount of the premiums;
  - (B) the amount of the down payment;
  - (C) the principal balance (the difference between (A) and (B) of this paragraph);
  - (D) the annual percentage rate of interest; and
  - (E) the number of payments required, the amount of each payment expressed in dollars, and the due date or period of it.

(b) The items set out in (a)(3) of this section need not be stated in the sequence or order in which they appear in (a) of this section, and additional items may be included to explain the computations made in determining the amount to be paid by the insured.

(c) The repayment schedule relating to dwelling fire, homeowner, private passenger automobile, boats not used for commercial purposes,

the unearned premium on the policy being financed at that time. No deficiency balance may be established or collected from the borrower. This section does not preclude the licensee from establishing or collecting a deficiency balance to the extent the insurer offsets unearned premiums on the policy financed by premiums earned by reason of endorsements to that same policy not paid for by the insured or financed by the licensee.

(d) The licensee or the insurance agent shall deliver to the borrower, or mail to him at his address shown in the agreement, a complete copy of the agreement. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.120. Maximum interest permitted: Prepayment, refund.**

(a) A premium finance company may not charge, contract for, receive, or collect a service charge other than as permitted by this chapter.

(b) The service charge is to be computed on the balance of the premiums due, after subtracting the down payment made by the borrower in accordance with the premium finance agreement, from the effective date of the insurance coverage, for which the premiums are being advanced, to and including the date when the final payment of the premium finance agreement is payable.

(c) The service charge may not exceed interest at the nominal annual rate of 15 per cent plus an additional charge of \$10 per premium finance agreement which need not be refunded upon cancellation or prepayment. However, any borrower may prepay his premium finance agreement in full at any time before the due date of the final payment and in that event the unearned service charge shall be refunded. The amount of any refund shall be calculated in accordance with regulations adopted by the commissioner. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.130. Delinquency charge.** (a) A premium finance agreement may provide for the payment by the borrower of a delinquency charge for any payment that is in default for a period of 10 days or more. The charge may be made for each month or fraction of a month that the payment is in default. The amount of the charge may be a minimum of \$1 and as a maximum shall be subject to the following limits:

- (1) for delinquent payments of less than \$250, five per cent of the payment or \$5, whichever is less; or
- (2) for delinquent payments of \$250 or more, two per cent of the payment.

(b) A borrower may at his option separate the financing of the premiums for one insurance policy from a premium finance agreement by requesting in writing that the premium finance company provide that

insurance policy may not be cancelled by the licensee unless the cancellation is effectuated in accordance with this section.

(b) The licensee shall give not less than 10 days written notice to the borrower, by mailing by certified mail or documented by an affidavit of mailing, of the licensee's intent to cancel the insurance policy unless the default is cured within that 10-day period. A copy of the notice shall also be mailed by certified mail or documented by an affidavit of mailing to the insurance agent indicated on the premium finance agreement.

(c) After expiration of the 10-day period specified in (b) of this section, the licensee may, in the name of the borrower, cancel the insurance policy by mailing by certified mail or documented by an affidavit of mailing to the insurer a notice of cancellation. The insurance policy shall be cancelled as if the notice of cancellation had been submitted by the borrower himself, but without requiring the return of the insurance policy. The licensee shall also mail by certified mail or documented by an affidavit of mailing a notice of cancellation to the borrower at his last-known address and to the insurance agent indicated on the premium finance agreement.

(d) All statutory, regulatory and contractual restrictions providing that the insurance policy may not be cancelled unless notice is given to a governmental agency, mortgagee, or other third party shall apply where cancellation is effected under the provisions of this section. The insurer shall give the prescribed notice on behalf of itself or the borrower to any governmental agency, mortgagee, or other third party on or before the fifth business day after the day it receives the notice of cancellation from the licensee and shall determine the effective date of cancellation taking into consideration the number of days' notice required to complete the cancellation. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.150. Return of unearned premiums.** (a) Whenever a financed insurance policy is cancelled and provided the insurer has been notified of the assignment of interest of the insured to the licensee, the insurer within 60 days of the effective date of cancellation shall take such steps as are necessary to have any gross unearned premiums that are due under the insurance policy returned to the licensee for the account of the borrower if the licensee has complied with the notice provisions of § 140(b) of this chapter.

(b) If the crediting of return premiums to the account of the borrower results in a surplus over the amount due from the borrower, the licensee shall refund the excess to the borrower; however, no refund is required if it amounts to less than \$1. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.160. Civil and criminal penalties.** (a) A lender who, in the making of any contract, loan or premium finance agreement or the collection of interest or charges, does any act which violates §§ 10 — 20, 90, or 110 — 130 of this chapter shall at the option of the commissioner reimburse that portion of the interest and charges in excess of that provided in those sections, or, in the case of repeated violations of those sections by the lender, the lender shall adjust the contract, loan, or premium finance agreement interest and other charges down to the contract interest limitation specified in AS 45.45.010(a).

(b) Any person, copartnership, association, or corporation, and its members, officers, directors, agents, and employees, who violates or participates in a violation of the provisions of § 10 of this chapter, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both. In case of conviction of a corporation for violation of this chapter, the corporation is punishable by a fine of not more than \$20,000. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.170. Filing not required to perfect validity of agreement.** No filing under AS 45.05 of the premium finance agreement is necessary to perfect the validity of the agreement as a secured transaction against creditors, subsequent purchasers, pledgees, encumbrancers, successors or assigns. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.180. Regulations, orders.** The commissioner shall adopt regulations necessary to carry out this chapter, and the commissioner may order any person to cease violation of this chapter or a regulation adopted under it. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.190. Definitions.** As used in this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of commerce and economic development or his designee;

(2) "department" means the Department of Commerce and Economic Development;

(3) "premium finance agreement" means an agreement by which a borrower or prospective borrower promises to pay to a licensee or to its assignee the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent or broker in payment of premiums on an insurance policy sold in this state or covering risks located in this state together with a service charge, and as a security for it the premium finance company receives an assignment of the unearned premium; however, no mortgage, conditional sale contract, or other security agreement covering property which authorizes the lienholder to pay or advance premiums for insurance under the mortgage, contract, or other

security agreement is considered to be a premium finance agreement;

(4) "premium finance company" means a person engaged in the business of entering into premium finance agreements with borrowers or of acquiring premium finance agreements from insurance agents, brokers or other premium finance companies. (§ 1 ch 170 SLA 1978)

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. SB 279  
 Title An Act Relating to the "Wild Card Statute"  
 Requested by Senate Labor & Commerce Date 3/19/81

II. FISCAL DETAIL  
 Agency Affected Department of Commerce & Economic Development  
 Program Category Affected Consumer Protection  
 BRU, Program, or Subprogram(s) Affected Financial Institutions  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)  
EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 3/19/81 PREPARED BY Willis F. Kirkpatrick, Director of Banking  
 AGENCY Department of Commerce & Economic Development  
 PHONE 465-2521  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

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Official Business

# Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

April 13, 1981

## COMMITTEE MEETING MINUTES

The meeting was called to order at 3:07 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 278 "An Act relating to savings associations."

Chairman Mulcahy entertained a motion to move SB 278 out of Committee.

Next on the agenda was SB 279 " An Act relating to the general powers of the Department of Commerce and Economic Development."

Mr. Kirkpatrick, Director, Division of Banking testified in favor of SB 279. (tape reading 025 to 092)

Chairman Mulcahy entertained a motion to move SB 279 out of committee.

Next on the agenda was SB 280 "An Act relating to credit unions."

Mr. Kirkpatrick continued his testimony, addressing SB 280. (tape reading 100 to 134)

Chairman Mulcahy entertained a motion to move SB 280 out of committee.

The meeting was adjourned by Chairman Mulcahy at 3:16 P.M.

COMMITTEE REPORT

SENATE

3/13/81

FURTHER: None

Date: April 13, 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 280

credit unions

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

*Patrick Rodan*

*Bob Mulcahy*

\_\_\_\_\_

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\_\_\_\_\_

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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*Hoban* *none*

*3-2* *N. Rec*

*John King* *N. Rec*

\_\_\_\_\_

\_\_\_\_\_

*Bob Mulcahy*

CHAIRMAN



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
June 11, Alaska 99811

#### SUMMARY SB 280:

Provides authority for the establishment of credit unions, to make available the benefits of credit unions which are cooperative, non-profit corporations. The Legislature intends to vest in the Dept. of Commerce and Econ Dev. the authority to allow by regulation those powers possessed by State Chartered credit unions in other states which the Dept. determines have demonstrated will aid in the achievement of their goals.

The commissioner may by regulation define the powers of state chartered credit unions and adopt regulations to carry out their purposes.

Loans to members shall be made in conformity with regulations adopted by the commissioner, except that the rate of interest may not exceed 15% per year or the rate specified in AS 45.45.110(b).

Loans shall be made in conformity with regulations adopted by the commissioner except that the total dollar amount of real estate loans and mobile home loans outstanding may not exceed 25% of the assets of the credit union without the written approval of the commissioner.

Without the approval of the commissioner, a credit union with less than \$3,000,000 assets may not make real estate loans with maturities in excess of 15 years.

Allows a credit union to establish share draft accounts.

Credit unions shall participate in insurance of member accounts under a program offered by the National Credit Union Administration Board, or a program of comparable insurance approved by the commissioner.



Michael S. Lynch, President  
P. O. Box 240 Anchorage, Alaska 99510 907/277-5661

PAGE 2 RELATES TO  
SB 980

RECEIVED

March 17, 1981

MAR 23 1981

Senator Patrick Rodey  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Senator Rodey:

You have asked the Legislative Affairs Committee of the Alaska Bankers Association to respond in writing to various bills now before the legislature. After examining the bills and discussing them, both in the Legislative Affairs Committee and with other members of the Alaska Bankers Association, we have the following comments:

Senate Bill 135: We support the bill in its present form. We are concerned that the funds for Alaska Housing Finance Corporation reach them as soon as possible. Based on current projections by the members of our association, the public has already or will soon make applications to the financial institutions in Alaska in an amount that would utilize those funds along with the monies Alaska Housing Finance Corporation has remaining from its last bond issue.

Also, we understand that it may be the desire of the legislature to change the rate at which Alaska Housing Finance Corporation makes loans to homeowners. While this is an area that deserves study, we believe it should be considered as part of any program starting in July 1981, not this supplemental appropriation.

Senate Bill 278: This is a bill to amend the Savings and Loan Association's statutes and we concur in the amendments except Section 3. We believe this level of debt from a single borrower would be imprudent. It would mean that the entire net worth of an association could be wiped out by one bad loan. Commercial banks are limited to 10% of capital to a single borrower and history has shown that this is a good benchmark.

Senator Patrick Rodey

Page 2

March 17, 1981

Senate Bill 280: This is a bill amending various sections of the Credit Union's statutes. All sections seem designed to bring the State Credit Union laws in line with Federal Credit Unions and other financial institutions, and we support all amendments. We do believe, however, that an increase of rate to 15% is not enough and 18% would be better.

Amendment to AS 06.01.020: This the amendment to make workable what is called "The Wild Card" provision and we support this amendment.

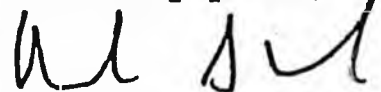
"An Act Relating to Interest Rates":

Section 1 - Amendment to AS 06.20.230 (b): This is an amendment to the Small Loan Act. It allows their rate limit to move daily and, therefore, more nearly reflect the true market. We support this amendment.

Section 2 - Amendment to AS 09.55.440 (a): While this is an amendment unrelated to banking, we support the philosophy of paying market rates and, therefore, we support this amendment.

Section 3 and 4 - These sections take Alaska out from under the federal usury laws and put it back under the existing state statute. The existing state statute is more restrictive than the federal laws and, therefore, we oppose sections 3 and 4. We feel that by reducing controls on interest rates all sectors of the market will be better able to freely compete for lendable funds. These two sections without a new state usury statute would be a step backwards.

Sincerely yours,



Michael S. Lynch  
President

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examination or investigation has been completed. All assessments shall be paid to and received by the department by each institution within 30 days after receipt of notice of the assessment.

(c) Any financial institution which fails to make the payments required by the commissioner under (a) and (b) of this section within the time specified is subject to a penalty of not more than \$100 each day it is late. The penalty, together with the amount due under (a) of this section, may be recovered in a civil action brought by the department. (§ 42 ch 169 SLA 1978)

Sec. 06.01.020. General powers of department. The commissioner may by regulation authorize financial institutions, except licensees subject to ch. 20 of this title, to exercise any of the powers conferred upon a federally chartered bank, trust company, savings association, or other federally chartered institution doing business in this state which is subject to the regulations of the United States Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation or the successor or successors of them, if the commissioner finds that the exercise of the power both:

- (1) serves the public convenience and advantage; and
- (2) equalizes and maintains the quality of competition between state-chartered financial institutions and corresponding federally chartered financial institutions. (§ 42 ch 169 SLA 1978)

Sec. 06.01.030. Order. and injunctions; notice and hearings; regulations. (a) Whenever it appears to the commissioner that a person has engaged in an act or practice in violation of any provision of this title or of a regulation adopted under it, the commissioner may

(1) if he considers it to be in the public interest, issue an order directing the person to stop the act or practice; reasonable notice and an opportunity for a hearing must be given before issuing the order; however, the commissioner may issue a temporary order pending the hearing which remains in effect until 10 days after the hearing is held and which becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this title or a regulation adopted under it; upon a proper showing, the department is entitled to the appropriate remedy, and a receiver or conservator may be appointed for the defendant or the defendant's assets; the commissioner is not required to post a bond.

(b) Except as provided in (a) of this section, the department shall give public notice of each proposed action, but it is not required to hold a hearing before taking the action unless it receives written opposition to the proposed action. Written opposition must be filed with the department within the time specified by the department. In cases

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§ 06.45.010 BANKS AND FINANCIAL INSTITUTIONS § 06.45.020

Section	Section
130. Applications for membership	250. Insurance of member accounts
140. Powers and duties of credit committee	260. Liquidity facility participation
150. Loan restriction	270. Conflict of interest
160. Security	280. Merger
170. Powers and duties of supervisory committee	290. Branch offices
180. Reserves	300. Unauthorized conduct of credit union business
190. Dividends	310. Transfer of credit union's property to preferred creditor is void
200. Expulsion and withdrawal	320. Unlawful deceit of commissioner or examiners
210. Minors or trusts	330. Receipt of deposits while insolvent
220. Suspension	340. Limitations on credit unions
230. Exemption from taxation	400. Definitions
240. Conversions	

Effective date of chapter. — Section 4, ch. 47, SLA 1980, makes this chapter effective July 1, 1980.

**Sec. 06.45.010. Responsibility of commissioner.** (a) The commissioner shall administer this chapter.

(b) The commissioner may adopt regulations for the administration of this chapter.

(c) The commissioner may delegate any authority, power, or function granted by this chapter.

(d) The records of credit unions shall be kept and reports shall be made in accordance with regulations approved by the commissioner.

(e) A person appointed or elected by a credit union to a position requiring the receipt, payment, or custody of money or personal property owned by a credit union or in its custody or control as collateral or otherwise shall give bond in a corporate surety company approved by the commissioner on a form approved by the commissioner and in an amount prescribed by the commissioner. The commissioner may approve the use of a form of schedule or blanket bond which covers all the officers and employees of a credit union whose duties include the receipt, payment, or custody of money or other personal property for or on behalf of the credit union. The commissioner may approve the use of a form of excess coverage bond under which a credit union may obtain coverage in excess of the basic surety coverage. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.020. Formation of credit union.** (a) Seven or more natural persons who desire to form a credit union shall subscribe before an officer competent to administer oaths articles of incorporation in duplicate which shall state

- (1) the name of the credit union;