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Bulletin 77-4 issued on April 12, 1977 deals with Federal Register Matters.

Order 78-4 issued on July 24, 1978 deals with the Alaska Mechanics' Lien Law as amended effective July 18, 1978.

4. The study of title insurance was substantially completed in January 1978 and a first draft regulation was prepared. This draft was further modified and on February 10, 1978 the second draft was sent to all title insurers and title insurance agents for review with a request for comment. On February 28, 1978, an additional letter was mailed extending the period for comment and providing a section by section commentary on the proposal. The input received as a result of this procedure was carefully reviewed and a third draft and fourth draft was prepared.

5. Upon completion of the fourth draft, a hearing was set and a duly prepared notice thereof as required by AS 21.06.090 was mailed to:

All title insurers doing business in Alaska;
All title insurance agents licensed in Alaska;
All Alaska State legislators;
The Commissioner of Commerce & Economic Development;
All State Banks in Alaska;
All National Banks in Alaska;
All Federal Savings and Loan Associations in Alaska;
The Federal Housing Administration;
The Federal National Mortgage Association;
The U.S. Department of Housing and Urban Development;
The Federal Veterans' Administration;
The Alaska State Housing Authority;
The Anchorage Realty Board;
The Fairbanks Realty Board;
The Homebuilders Association;
The Association of General Contractors;
The Teamsters Pension Fund; and
The Anchorage Multiple Listing Service.

A notice of the Rules of Procedure for the Hearing was also mailed simultaneously with the hearing notice to the same persons.

The Notice of Hearing, the Notice of Rules of Procedure for the Hearing, the Affidavit of Mailing Notice, the various affidavits of publication are all exhibits to the permanent record of this proceeding.

7. Hearings were held at the times, on the dates as set forth in the Notice of Hearing and Rules of Procedure. The hearings were conducted in accordance with the Rules of Procedure and in accordance with AS 21.06.210.

COMPETITION IN THE TITLE INSURANCE INDUSTRY

8. Title insurance is seldom purchased as a separate product or service in the same way that automobile insurance or homeowners insurance is purchased. A consumer of automobile or homeowners insurance must annually reevaluate his insurance requirements, compare price and service of several competing alternative sources for this coverage, and make a choice of carrier or agent.

On the other hand, title insurance is generally purchased as an incidental part of another transaction far more significant to the purchaser. For example, a family purchases a new home, a transaction which requires a cash investment of several thousand dollars and a total investment, including borrowing funds, of four or five times the family annual income. This is the largest single investment of most families and may occur only a few times during the family's existence.

The family has been consumed with decisions about the house, the location, the financing, the costs of moving, and the color of carpets. A significant concern of the family is obtaining the loan. As the loan transaction is completed, the family pays numerous incidentals including loan fees, appraisal costs, escrow expenses and other similar matters. Title insurance, which most home buyers do not fully understand, is "loaded in" as one of the several necessary incidentals. The buyer is happy to be "led" to a title company of the broker's or lender's suggestion. It is not until a defect occurs in title that a buyer realizes that his title policy is the most important part of the transaction. It was not until the Division studied the profit results of title insurers that the significance of the buyer being effectively, if not legally, denied the choice of title insurer became apparent to us. It is our conclusion that there is really no price competition among title insurers.

Our findings suggest that we promulgate regulations that tend toward a more informed purchaser of title insurance and a greater degree of price competition.

FORM FILINGS

9. The forms to be filed by an insurer are set forth in AS 21.66.450. This section establishes a filing requirement, a time for review by the Division and which forms are to be filed. Aside from this, no procedural requirements have been discussed in the statute. Interpretations as to the scope of forms intended for inclusion in the statutory filing requirement have been varied. Of particular concern to this Division is that category of terms, conditions, exceptions or provisions which are typed-in but have not previously been approved for inclusion in a form issued for use in this State.

If the typed-in material is a specific defect in title that may be ascertained from an examination of the risk, then the resultant exception along with any affirmative assurance offered with respect to such defect is not subject to the filing requirement. On the other hand, an exception listed which is not determined or ascertained from an examination of the risk amounts to a modification of the filed form and must be reviewed and considered in that light. If an applicant for insurance causes limitations upon examination of the risk or fails to provide the data requisite to a judgement of insurability, resultant exceptions would not be subject to the filing requirement. All other material would be subject to the filing requirement.

10. To require the filing of forms used for the internal operation of the company and which are not issued to applicants for coverage would serve no practical purpose.

11. The Division has in the past received filings which have not included sufficient identifiers on the forms for adequate identification of those forms. Absence of form number, form title, name of insurer issuing the form or revision dates on revised forms have created difficulties in properly reviewing forms for use in Alaska and for determining compliance with filing requirements.

RATE FILINGS

12. In view of the various responses to the "Letter of Call for Information," it is readily apparent that most title insurers doing business in this State have very limited capabilities to produce data needed to support filed rate structures. While the responses did give the Division some working data for its needs, they were generally insufficient in quality to elicit any degree of confidence in the accuracy of data contained therein.

13. Rate standards are established in statute by which the Division is supposed to be making the judgement as to whether to approve or to disapprove a rate. In many respects, these standards are not too different than the standards established for property/casualty lines of insurers. AS 21.66.360 states that "The purpose of Sections 370-400 of this Chapter is to promote the public welfare by regulating title insurance rates so that they are not excessive, inadequate or unfairly discriminatory..." We have found that there is little consistency in the way a title insurer arrives at its rates.

13. The title insurance industry through the American Land Title Association, in an attempt to respond to similar concerns by regulations in other jurisdictions, was prompted to cause development of a data collection system to help its member companies organize their efforts to address the regulatory rate information collection problem. In cooperation with Arthur D. Little, Inc., a Uniform Financial Reporting Plan and a Uniform Statistical System were developed. However, testimony has been received which casts substantial doubt that this data collection system would give us the necessary data with which to approve or disapprove title rates.

It is clear that the system would generate useful information for company management. Aggregate loss and expense data by state provides bench marks with which individual company managers can measure individual performance.

Both industry and the Division could use the data to measure aggregate rate adequacy. But there are serious deficiencies.

First, the costs for any company writing in Alaska includes allocations of central corporate costs which are distributed to the Alaska book of business by formulae which are probably generally equitable but are necessarily arbitrary and may be wholly inequitable when applied to a single company operation. While this may still generate information useful for management, it offers insufficient support for Alaska title insurance rate making to justify the expense to the companies or the burden on the Division.

Second, the trend in rate filings with the Division has been to rate reductions for special classes of business and specialty products or unique markets. There has not been a change by any single title insurer or the industry of the basic rate for years. This trend in filing indicates that the most significant information needed by the Division is loss and expense data by product line and by target market. The proposed systems do not offer data in this regard either directly or by allocation.

These deficiencies lead us to suspend serious consideration to adopt either part of the system.

Nevertheless, the requirement of AS 21.66.360 remains and any rate filed must demonstrate that it is, indeed, not excessive, inadequate or unfairly discriminatory. To this end, it is clear that title insurers will have to develop the capability to produce data to support filed rate structures, both current and future. A methodology and formula used to arrive at given rate levels should be developed by each company which has many of the elements of the system considered and not adopted. It must have the ability to support rate activities by product line and by target market. Allocations of expenses will be required with explanation. Much of what is needed requires an industry approach rather than individual company approach. With this in mind, we point out that AS 21.66.360 authorizes intercompany cooperation in rate making and it is likely that by separate order and cooperative effort, an inter-industry rate data and statistical collection could be sanctioned by the Division.

FILING ACKNOWLEDGEMENT AND RETENTION

14. Alaska law provides that a filing may be used 30 days after it has been filed with the Director unless it has received earlier approval. There has been some difference of interpretation concerning the date of filing. Clearly a document can not be considered filed with the Division until the Division has physical possession of that document. Further, the burden of proving that a filing has in fact been made, rests with the filer. The procedure set forth in regulation offers a method whereby the insurer can assure itself that it is in compliance with the law as concerns the use of its rates and forms.

TITLE INSURANCE AGENTS SERVICES

16. A title insurance agency may engage in the business of handling excrows, settlements or closing in connection with its title insurance business. AS 21.66.280 establishes requirements for an agency so engaged. These requirements include: a separate fiduciary account for all escrow funds which may not be commingled with any other funds; a record keeping requirement; submission of financial statements; and compliance with solvency standards established by the Director.

17. A mismanaged escrow transaction could result in a sizeable loss to one or more parties to such a transaction. For this reason, a solvency standard applicable to the title agent is important as a protection to the users of this service. Ideally, a corporate protection is more desirable than regulatory protection. Corporate protection includes such things as maintenance of a specified capital and surplus, fiduciary accounts, fidelity bond coverage, and the third party guarantees for liabilities incurred. Regulatory protection includes record keeping, examination and reporting requirements. A combination of both can provide a reasonable protection to the users of the service. Good business practices will dictate that the agent will limit his liability or exposure to liability to the degree he can with such things as fidelity bond protection on employees, maintenance of sufficient operating capital and third party guarantees.

18. A title insurance agent in this state maintains a relationship with only one title insurance company. The agent holds himself before the public as representing that company. The company name or logo appears on the forms used by the agent, on materials made available for distribution to the public, and on advertising materials on or within the office of the agent. As a natural result, the public tends to view the agent as a branch of the company. It is normal practice for the title insurance company to guarantee the agents liabilities as to title insurance matters. We view an extension of this guarantee to liabilities arising out of the business of handling escrows, settlements or closing to be a logical and natural extension since these functions are performed in connection with the agents title business. We further view such a guarantee as sufficient and necessary public protection and offer this method as one of two options through which an agent may evidence the financial ability which the Division must find pursuant to AS 21.66.280.

19. From the regulatory viewpoint, the most effective tools for public protection, and the one that has not previously been used in this specific area is the examination process. Clearly, this tool coupled with corporate protections will assure an adequate protection of the Alaska public. The regulations are directed to keeping current the data necessary to conduct such an examination.

OWNER'S, PURCHASER'S, LESSEE'S TITLE INSURANCE POLICY

20. Almost every insurer operating in Alaska experiences, to a greater or lesser degree, some kind of competitive advantage because of influence exerted directly or indirectly in some areas of the market. These advantages exist primarily because the business is ordered or placed by persons other than the owner, purchaser or lessee of insured property. Some states expend a great deal of time, money and manpower to directly regulate or control these influences. We have doubts as to how effective such an approach can be. The cost-benefit ratio of such an approach in Alaska renders such an approach impractical.

21. While some title insurers view the bank, real estate broker, lawyer, etc. requesting coverage on behalf of a client, as their customer, we view the owner, purchaser or lessee protected by the policy as the customer. That person should therefore be in a position to exercise more control in the selection of coverages and selection of insurer than is presently the practice. One way to assure that this control is shifted is to require that certain materials have been delivered to the person owning, purchasing or leasing property subject to the proposed insurance before such insurance has been placed or is effective. This would tend to assure that the choice of selection is in the proper hands. We address this concern primarily to residential property one to four families and raw land on the theory that other transactions will involve persons in a position to adequately influence the placement of insurance and having sufficient commercial awareness of title insurance involvement in a real estate transaction as to not need protection of a governmental agency. With these regulations, we require the title insurance company or title insurance agent provide the proposed owner, purchaser or lessee with a consumer brochure which describes title insurance, its purpose, the extent of coverages available, and the right to select coverage and insurer.

22. One of the purposes of the title insurance report or preliminary commitment of title insurance and one to which the title industry points proudly, is to apprise the prospective owner, purchaser or lessee and lender concerning the condition of title so that he can make an informed decision as to whether he should go forward with the transaction. In many cases, the proposed owner, purchaser or lessee in this State does not see a title report until after the transaction has closed, a practice at odds with statements made by the industry through its trade oganization, the American Land Title Association, and one that is unfair to the proposed owner, purchaser or lessee. So important is this function that we require that the report be in the hands of the proposed owner, purchaser, or lessee and that that person have accepted the exceptions listed thereon prior to the closing date of the transaction.

23. The Division has received consumer complaints from persons who had reason to believe that the title insurance charge on their closing statement evidenced coverage under which they would be the beneficiary only to discover that coverage was provided for the lender only. Admittedly, this happenstance has diminished with the advent of the Real Estate Settlement Procedures Act (RESPA), a Federal statute which among other things requires that a fairly comprehensive information booklet be given to the prospective purchaser of residential property. However, RESPA is not all reaching and it is likely that the practice continues. To the degree that it does continue the practice is potentially injurious to the public.

    Since title insurance is purchased so infrequently during a person's lifetime, it is not surprising that a person would not know that the title insurance charge on his closing provides him no coverage, unless it was carefully and clearly explained to him. There are so many things to be considered during a real estate transaction that the uninitiated is hard pressed to assign a great deal of importance to any single item. He is relying on his broker, attorney, if he has one, and lender to make those assessments for him. When any of these parties either fail to inform, inadequately inform, or misinform, the stage is set for disaster should the title be clouded. For this reason we require simultaneous issue of coverage for the mortgagor when mortgagee coverage is ordered. This may be rejected by the mortgagor in writing in which case he will be conscious of the fact that he will have no coverage for his interest.

24. We have some concern for a practice which could develop as a response to the position espoused in this Order, in which the lender takes the position that regardless of the selection of title insurance made by the prospective owner, purchaser or lessee, the lender will make the selection of the insurer to provide mortgagee protection. This would result in either a negation of the selection choice made by the prospective owner, purchaser or lessee, or a substantially increased title insurance cost since the rate advantage in a simultaneous issue would not be available. The Division points out that AS 21.36.165 prohibits just such an action. This section, dealing with coercion of debtors is not limited to persons licensed or admitted to do business by the Division and does extend to actions by lenders. The penalties provided in AS 21.36.320 for violations are substantial and are enforceable in court.

STANDARDS OF PERFORMANCE

25. The Division has received a number of complaints concerning delays in processing title orders. We have been advised by the title industry that orders can generally be processed in one to three days. Some complaints received have evidenced delays in excess of several months. A prohibition to accepting orders that cannot be processed within a stated time period would not recognize the occassional surges of orders that can occur and would likely prove to be injurious to the public. By establishing a standard within which service is to be provided, it is recognized that there will be exceptions which will not be subject to penalty. The general book of business must meet the established standard.

UNFAIR TITLE TRADE PRACTICES

26. During the mechanics lien problem of 1977, it became apparent to the Division that the title insurance industry in Alaska was very sensitive to pressures from the lending community to provide coverages or services insisted upon. This was true even where there was a distinct question concerning the legality or propriety of the coverage or service. This possibility is reduced where positive statements are made listing those actions considered to be unfair practices.

27. In Order 77-3, a discussion of title insurance was presented. It was noted that the cost of title insurance is primarily due the expense of search and examination. The title insurer has rates on file that presumably reflect this expense. The title insurer must, therefore, assure itself that it has an order from someone empowered to make such an order and must make a charge reflective of the work done. If a policy is issued then the charge must also be reflective of the coverage provided.

    The Division has had occasion to review contracts which when read in their entirety, provide essentially no coverage at all. In effect, the benefits provided are illusory. Such contracts are misleading, are injurious to the person supposedly insured and may not be issued.

    Other forms have been found issued and delivered which have not been the subject of a search and examination of the title. This practice is contrary to the requirements of AS 21.66.170(a) and is not permitted.

28. Complaints have been received where the title policy contained exceptions not appearing in the preliminary report. A title insurer or agent handling the recording of documents pertinent to a real property transaction is able to exercise control over matters that generate title insurance policy exceptions. It is in a position to make known to the prospective owner, purchaser or lessee of property, all exceptions to title which will appear on his title. Having accepted the responsibility for recording and thus, being in the position described, there should be no reason, aside from error, for additional exceptions to arise. It is, therefore, reasonable to expect the insurer or agent to be bound by the exceptions presented to the prospective owner, purchaser or lessee in the preliminary title report prior to the closing date.

29. Several title insurers have had endorsements and rates on file which would provide coverage to a mortgagee for its own usurious actions. Usurious actions are illegal. For an insurer to provide protection to an insured for that insureds illegal action is a measure which tends to circumvent the penalties created in law for the illegal action and is, therefore, against public policy. Issuance of coverage for such usurious action is, therefore, prohibited.

30. The responsibility of a title insurance company or title insurance agent issuing a report on title is to report all encumbrances or impairments to title which it has determined can be enforced. As an underwriting matter, the company may decide to provide coverage for the matter excepted. Nevertheless, the prospective insured is entitled to know all exceptions to title regardless of whether the insurer elects to provide coverage for the exception or not.

31. The title insurance company is required to file its schedule of rates under AS 21.66.370. It is separately required to file its escrow, setttlement and closing charges. The intent of this separation is to avoid a rebate situation where service, special favor or advantage of value is provided an as inducement to coverage. The charges for each must be separate items.

32. Title insurance companies and title insurance agents, in order to encourage the use of their service by lenders, real estate brokers, attorneys and others, provide forms needed in real estate transactions. Normally, the name of the title insurance company or title insurance agency will be preprinted, prestamped, pretyped or prewritten on the form used or intended for use in connection with a real estate transaction including escrow instructions, earnest money agreements, deposit receipts, or other similar documents in which the title insurer or title agent is to be designated by parties to the transaction to provide title insurance or a title service. This acts as a deterrent to the proposed owner, purchaser or lessee's right to make his own choice of title insurer, and therefore, defeats the intent of this Order and regulation.

REMOVAL OF EXCEPTED LIENS - COLLATERALIZED SECURITY

33. Since a title insurer or title insurance agent must list all encumbrances or impairments to title which it has determined can be enforced, including liens, the Division is concerned with any exercise of underwriting judgement which may tend to generate loss. AS 21.66.190(b) bars a title insurer from engaging in the business of guaranteeing the payment of the principal or the interest of bonds or other obligations. Therefore, a lien exception for which coverage is provided must be supported by some form of collateralized indemnity to prevent a violation of AS 21.66.190(b). The collateral accepted by an insurer can ultimately become an asset of the company, so that logically the collateral should be limited to only those items that can be admitted as an asset under AS 21.21. It should further be protected by insurance where appropriate, as in the case of improvements on real property. An additional consideration is that the collateral be reasonably valued. These matters can have a direct bearing on the solvency of the company. The Division, therefore, makes an entirely appropriate intrusion into the standards established for the valuation of and kinds of collateral used to provide coverage for a lien exception.

34. A situation which has come to the Division's attention on several occasions is that where a title insurance company has provided coverage for an exception or has failed to list an exception. During a subsequent transaction with another insurer, the exception is listed and this fact impairs the transaction. The last title insurer is willing to write coverage for the exception, while the new one is not. This often occurs when the succeeding company is unable to obtain an acceptable indemnity. The property is effectively locked into the last insurer.

Generally, insurers in the position of the last insurer are not giving any indemnities to subsequent insurers, thus, furthering the lock up. The result is that the proposed owner, purchaser or lessee is denied his freedom of choice of the insurer of his choice. This is an unacceptable situation. It is further unacceptable that an insured miss a potential sale of the property while the title insurer attempts to resolve the problem. If the company pays the loss, then the matter is resolved, as to the company, its obligation having been fulfilled. Short of that the only way to avoid a lock up of the property is for the last company to provide an indemnity.

It is reasonable that the obligation of the last title company be limited to the coverage it had provided as to type and limit. The last insurer must provide the indemnity for a current and valid lien not excepted for its policy when request for the indemnity is made by the insured under the existing policy. While the subsequent title company must list the encumbrance, it can provide coverage based on the indemnity.

35. Most title companies have in the past accepted uncollateralized indemnity agreements from persons not always able to respond in the event foreclosure is necessary. While we do not wish to totally prevent the use of uncollateralized indemnity agreements, it is important that persons giving such indemnities be able to support them. A title insurance company or title insurance agency is not staffed with personnel expert in making the kinds of judgements a lender makes when it extends credit. This is basically the kind of expertise needed when reviewing an unsupported indemnity. Generally, it is desirable to allow the use of unsupported indemnity agreements given by persons subject to some regulatory agency for it solvency, such as title insurance companies and banks. It is, however, recognized that some persons besides those subject to solvency regulation are indeed able to meet safely its obligations. This was reflected in Order 77-3, Supplement #3, and has been included in these regulations.

TITLE PLANTS

36. A title insurance company is obligated to maintain a minimum statutory financial position, to have a certain amount of capital and surplus pursuant to AS 21.66.010. It may, by law, (AS 21. 66.240) reflect as one of its assets, its title plant. Generally speaking, it is one of its principal assets, since it is capitalized at a rather high cost, thus, representing a sustantial portion of its assets. The plant is the core of the business. The destruction of the plant would in many cases place the title insurance company in insolvency. The fact that the loss of a single asset could have such an impact requires that a review be made of that potential.

    If a title insurer has elected to discontinue business after the loss of its plant, we have a regulatory responsiblity to see that such a choice is indeed a choice and not a position that is forced on the company because it is insolvent.

    If the title insurer intends to value the plant as an asset, then the division must take an active interest in contingency plans for its replacement, cost of rebuilding, length of time to rebuild, etc. A title insurer may elect not to value the plant as an asset in which case our view of the plant would necessarily differ, at least from the solvency standpoint.

37. AS 21.66.200 establishes requirements for a title plant but these tend to be vague except as to the requirement that all instruments of record affecting all land within the recording district for a period of at least 25 years immediately before the date a policy of title insurance is issued, be maintained. The statute also speaks to adequate maps and fully indexed records but does not elaborate as to content. The Division has reviewed several plants and has found more variety of content than expected. Our concern is that adequate material be found in the plant to properly conduct a reasonable search. This tends to be, perhaps, more of a problem in Alaska than in many other states due to our vast land size, mining history, size of federal land ownership and other problems. We have accordingly established minimum standards for content of the title plant.

38. On March 15, 1977, an informal meeting was held by the Division to discuss concerns of the title insurance industry regarding coverage of items disclosed in the Federal Register under title policies. This subject was again discussed at length during recent hearings considering the adoption of title insurance regulations. We have considered a requirement that all title plants in this State include matters recorded with the Land Recording Office of the Bureau of Land Management, United State Department of Interior for Alaska. This, it turns out, is not practicable since those records are not posted to specific tracts of land. The descriptions of land in those records is often so vague as to be unpostable.

The expectations of insureds is such that leaving the insured with such a large exposure is not acceptable. It is one thing to allow exclusion of a kind of coverage in toto, for example, encroachments. It is yet another thing to allow exclusion of a portion of a coverage based on who has the records revealing the defect. For example. unexpected easements would be covered if a state record but not if it is a federal record. We have, therefore, determined that the position adopted in Bulletin 77-4 is to be continued. The conclusions reached at that time were:

(a) No title insurance policy may exclude, through exceptions or by redefinition of the term "public record" or by any other means, the coverage under title insurance policies for items disclosed in the Federal Register;
(b) unless substantial evidence is provided to the contrary, current rate structures are deemed adequate to provide continuance of this coverage;
(c) although each title insurer may deem it prudent to maintain the Federal Register in its title plant AS 21.66.200 is deemed not to make it mandatory.

Subsection (c) has been incorporated in the regulations while (a) and (b) are to be considered a statement of policy on this matter.

39. The Division is cognizant of the Supreme Court's dicta in Hahn vs. Alaska Title Guaranty Company (1976), 557 P2d (Alaska) 143 in which the court suggested that public land orders be posted in the title plant. The Division, however, must wrestle with the issue of cost; comparing cost for each title insurer to add Federal Register items to their plant with the cost of paying a claim should one develop under the policy. The Division's current view is that claims for failure to diclose a public land order will generate a lesser cost than would the requirement to post to the title plant.

40. The Division takes the position that the Court in Hahn concluded that the policy covered public land orders because of an ambiguity in policy language. The Court stated: "Here, as indicated by the trial judge, in the absence of the definition portion of the policy, there would be little difficulty in construing the term 'public record' to include material published in the Federal Register." [emphasis added]

The title insurers may wish to file for approval, a modification to their policy changing the definition of "public record" to exclude public land orders. The Division will not currently favor such a filing but will allow the insurers to show exceptions for specifically identifiable public land orders that may affect the property subject of the policy.

Further, these regulations will make it necessary for insurers to show public land orders of which it has knowledge, and every title insurer has knowledge of public land order #601.

CONCLUSION

41. The various statements made in 8 through 33 of this order comprise the basis or reasoning behind the regulation subject of this order. These are all issues which the Division believes it must address and are appropriate matters for consideration. Every effort has been tendered the industry for input and for self-resolution of the problems addressed by these regulations.

THE DIRECTOR HEREBY ORDERS:

A. Bulletin 77-4 is repealed because the substantive provisions have been incorporated in the regulation.

B. Section D of Order 77-3 as set forth in Supplement #3 is repealed because the substantive provisions have been dealt with in the regulation.

C. The attached 12 pages of regulations dealing with title insurance are hereby adopted and certified to be correct copies of the regulations which the Division of Insurance adopts under authority vested by AS 21.06.090 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This order takes effect on the 30th day after it has been filed by the Lieutenant Governor as provided in AS 44.62.180.

Dated this 25th day of August, 1978.

Richard L. Block
Director of Insurance

I, Lowell Thomas, Jr., Lieutenant Governor for the State of Alaska, certify that on October 24, 1978, at 9:25 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 -- 44.62.120.

Lowell Thomas, Jr.
Lieutenant Governor

EFFECTIVE November 23, 1978
REGISTER 68, January 1979

CHAPTER 27. TITLE INSURANCE AND LENDER MARKETED PRODUCTS

Article
1. Title Insurance

ARTICLE 1. TITLE INSURANCE

Section
10. Forms required to be filed
20. Form filing requirements
30. Rates required to be filed
40. Rate filing requirements
50. Filing acknowledgements and retention
60. Title insurance agents' services
70. Owner's, purchaser's, lessee's title insurance policy
80. Standards of performance
90. Unfair title insurance trade practices
100. Removal of excepted liens
110. Collateralized security favoring title insurer
120. Title plants
130. Title plant security
300. Definitions

3 AAC 27.010. FORMS REQUIRED TO BE FILED. (a) Each insurer must file with the director for the director's approval each form which is intended or proposed to be issued by the company in the business of title insurance in this state. No form may be used unless filed with and approved by the director. The forms required to be filed must include:

(1) each policy of title insurance or guaranty;

(2) each form, rider or endorsement to be attached to a policy of title insurance or guaranty;

(3) each title report form, preliminary commitment to insure or to issue a policy of title insurance form, preliminary reports of title, and commitment to insure or to issue a policy of title insurance form;

(4) each binder for insurance;

(5) all terms and conditions of insurance coverage or guaranty that relate to title to any interest in property; and

(6) other title related reports whether insured or not.

(b) Any term or condition reflected in the policy that relates to title to any interest in property, or to the insurance coverage provided, and any exception appearing within the policy which has not been ascertained from a search and examination of the records relating to the title

or inspection or survey of subject property to be insured, may be included only after the term, condition, or exception has been filed and approved as if it were a separate form.

(c) Forms of title policies and other contracts of insurance in (a) and (b) of this section specifically exclude

(1) reinsurance contracts or agreements;

(2) all specific defects in title excepted in reports, binders, commitments or policies which have been ascertained from a search and examination of the records relating to the title, together with any affirmative assurances;

(3) policies of excess coinsurance; and

(4) forms used for the internal operation of the company which are not made part of any title policy or other contract of insurance. (Eff. 11/23/78, Reg. 68)

Authority: AS 21.06.090(a)
AS 21.66.370(g)
AS 21.66.450
AS 21.66.480(2)

3 AAC 27.020. FORM FILING REQUIREMENTS. (a) A letter of transmittal must accompany each filing of a form or forms required under sec. 10 of this chapter.

(b) Each transmittal letter must be dated.

(c) Each transmittal letter must contain the full name of the filing insurer.

(d) Each transmittal letter must contain the following information concerning the form or forms filed:

(1) the insurer's form number, revision date if applicable, and name for each form filed;

(2) a statement to indicate whether the form is new or a replacement of a previous filing; and

(3) a brief description of provisions, benefits, charges and any other information pertinent to consideration of the filing. (Eff. 11/23/78, Reg. 68)

Authority: AS 21.06.090(a)

3 AAC 27.030. RATES REQUIRED TO BE FILED. (a) Each insurer must file with the director a schedule of rates for each coverage or service which it provides.

(b) Each agent must file with the director a schedule of rates for any service which it provides that has not been filed under (a) of this section.

(c) The requirements of (a) and (b) of this section do not prevent the provision of a coverage or service at no charge if so stated and approved in the rate schedule. (Eff. 11/23/78, Reg. 68)

Authority: AS 21.06.090(a)
AS 21.66.360
AS 21.66.370
AS 21.66.380
AS 21.66.390

3 AAC 27.040. RATE FILING REQUIREMENTS. (a) A letter of transmittal must accompany each filing of rates required to be filed.

(b) Each transmittal letter must be dated.

(c) Each transmittal letter must contain the full name of the filing insurer.

(d) A transmittal letter for a rate to be used with a specific form may be combined with the filing transmittal letter for the form.

(e) Each rate filing to be justified under AS 21.66.380(a) must include:

(1) a description of the methods and formula used to arrive at the filed rate with a complete explanation of all judgment used in developing the rates as well as any assumptions used;

(2) expected expenses and losses represented as a percentage of total premium;

(3) past loss and expense history including the method for allocating regional and home office expenses to Alaska business, with identification of the year to which each is attributable;

(4) the statistical bases for any change in rate level or rate relativity; and

(5) if it is for a product line or target market, an allocation of expenses by product line or target market with explantion. (Eff.11/23/78, Reg. 68)

Authority: AS 21.06.090(a)
AS 21.66.360

AS 21.66.370
AS 21.66.380
AS 21.66.390

3 AAC 27.050. FILING ACKNOWLEDGEMENTS AND RETENTION. (a) The 30 day waiting period for a filing commences as of the date of acknowledgement of receipt by the division.

(b) Failure of a filer to provide a copy of a filing purported to have been filed, together with a copy of the transmittal letter with the division's acknowledgement, is considered failure to have made that filing.

(c) A filer desiring acknowledgement of receipt of a filing by the division may file a duplicate copy of the transmittal letter accompanied by a return envelope with adequate postage affixed to return that copy of the filing to the filer. The received date affixed to the transmittal letter constitutes acknowledgement of receipt.

(d) A copy of a filing made must be retained by the insurer as a permanent record until after the first market conduct examination by the division following replacement or discontinuance of the form. (Eff. 11/23/78, Reg. 68)

Authority: AS 21.06.090
AS 21.66.360
AS 21.66.370
AS 21.66.380
AS 21.66.400
AS 21.66.450

3 AAC 27.060 TITLE INSURANCE AGENTS SERVICES. (a) An agent engaging in the business of handling escrows, settlements or closings in connection with the business of title insurance shall provide annually no later than March 2:

(1) the name of the bank and account number of the account through which all receipts and disbursements for its escrow, settlements and closings business has been handled;

(2) the location at which an audit may be conducted of the books of accounts and records and vouchers pertaining to the business of handling escrows, settlements or closings; and

(3) evidence of solvency which may be either

(A) an agreement with the insurer for which it is the agent in which the insurer guarantees any liabilities, fiduciary or otherwise, incurred by the agent which arise out of the handling of escrows, settlements or closings in connection with the business title insurance, or,

(B) maintenance of a capital and surplus minimum of $50,000 and a fidelity bond, equal to the maximum amount of cash handled in any one transaction, covering all principals and employees involved in the handling of escrows, settlements or closings in connection with the business of title insurance.

(b) For the purpose of this section, "settlements" or "closings" include:

(1) recording, drafting, executing, transmitting, filing or certifying documents;

(2) acting as trustee; or

(3) exercising powers granted in documents relative or incidental to the sale or transfer of any interest in real or personal property sold or transferred as part of a real property transaction. (Eff.11/23/78, Reg. 68)

Authority: AS 21.06.090(a)
AS 21.66.280(b)

3 AAC 27.070. OWNER'S, PURCHASER'S, LESSEE'S TITLE INSURANCE POLICY. (a) No insurer or agent may issue or deliver an owner's, purchaser's or lessee's title insurance policy or contract of insurance in connection with a transaction involving a single family residence, a multiple dwelling for two to four families, or raw land of five acres or less unless:

(1) it has provided the proposed owner, purchaser, or lessee, at the time of placing the order, with a consumer brochure describing title insurance, the purpose and extent of coverages available, and the right of the proposed owner, purchaser, or lessee to select the insurer with whom the coverage is to be placed as well as the type of coverage to be purchased to provide for his own interests;

(2) a copy of a preliminary report of title and commitment to issue a policy concerning the subject property has been delivered to the proposed owner, purchaser, or lessee and he has acknowledged receipt of the report and acceptance of the exceptions listed prior to the closing date for the transaction.

(b) No insurer or agent may issue or deliver mortgagee's title insurance in connection with a transaction involving a single family residence or a mutliple dwelling for two to four families or raw land of five acres or less upon a loan made simultaneously with the purchase of all or part of the real estate securing that loan unless standard form owners coverage for the mortgagor is also provided.

(c) Notwithstanding (b) of this section, the mortgagor has the right to reject coverage protecting his interest. Such rejection must be in writing. The rejection must be retained by the company for a period not less than five years from the date the loan is closed.

(d) A consumer brochure described in (a)(1) of this section must be filed with and approved by the director before its use. The brochure may be filed by or on behalf of one or more insurers.

(e) An insurer or agent has provided the proposed owner, purchaser, or lessee a brochure at the time of placing the order if it can demonstrate that the lender, escrow, real estate broker, attorney, or other party delivered to the proposed owner, purchaser, or lessee the approved brochure at the time documents in which title insurance provisions are included are executed or, where no institutional lender, escrow, real estate broker, or attorney is involved, within one business day after receipt of an order, the insurer agent mails the brochure to the proposed owner, purchaser, or lessee. (Eff. 11/23/78, Reg. 68)

Authority: AS 21.06.090(a)
AS 21.36.0[illegible]
AS 21.36.[illegible]
AS 21.36.[illegible]65
AS 21.66.450

3 AAC 27.080. STANDARDS OF PERFORMANCE. (a) An insurer or agent failing to meet the standards set forth in this section is subject to disciplinary measures as stated in AS 21.66.430. This is not to be construed as a limitation on the use of other penalty and discipline measures considered appropriate by the director.

(b) An insurer or agent shall, as a general business practice, provide a service or contract ordered within five working days of the date of order on all transactions involving a single family residence, a multiple family dwelling for two to four families or raw land of five acres or less.

(c) As to general business practice, delivery of an owner's, purchaser's or lessee's title insurance policy must be made no more than 10 days after closing of the transaction for which it was required. For the purpose of this section, "delivery" means placing the policy into the possession of the person insured. (Eff. 11/23/78, Reg. 68)

Authority: AS 21.06.090(a)
AS 21.42.250
AS 21.66.430

3 AAC 27.090. UNFAIR TITLE INSURANCE TRADE PRACTICES. (a) No insurer or agent may issue a title insurance binder,

commitment to title insurance, preliminary commitment to issue title insurance, or preliminary report

(1) unless a bona fide order for such a document has been made by or on behalf of the person to be insured and a fee is charged for the document;

(2) if by its terms and exceptions, any policy resulting from acceptance of the document provides illusory benefits;

(3) unless based upon a search and examination of the title; or

(4) for a charge which is other than that currently filed for such a risk with the Division of Insurance.

(b) No insurer or agent may issue an owner's, purchaser's, or lessee's policy on which it has handled the recording of documents pertinent to the transaction that contains exceptions which were not approved in writing by the owner, purchaser, or lessee before the date of closing or which were not listed as exceptions to title in the report on title.

(c) No insurer or agent may issue coverage to a mortgagee for the usurious actions of the mortgagee.

(d) No insurer or agent may fail to list as an exception to title any encumbrance or impairment to title which it has determined can be enforced.

(e) No insurer or agent may include any exception to title for items which have not been ascertained from a search of title unless the exception has first been filed and approved for use under sec. 10(b) of this chapter.

(f) No insurer or agent may include or agree to include closing or escrow services as a part of a title insurance premium charge for issuance of a policy.

(g) No insurer or agent may issue, print or use, or cause to be issued, printed, or used any form used or intended for use in connection with a real estate transaction including escrow instructions, earnest money agreements, deposit receipts or any other similar document in which an insurer or agent is to be designated by the parties to the transaction if the name of any insurer or agent is preprinted, prestamped, pretyped, or prewritten into the form to designate the insurer or agent selected to issue the title insurance. This does not apply to deeds of trust in which the insurer or agent is named as trustee. (Eff. 11/23/78, Reg. 68)

Authority: AS 21.06.090(a)
AS 21.36.150
AS 21.66.170(a)
AS 21.66.310
AS 21.66.370

3 AAC 27.100. REMOVAL OF EXCEPTED LIENS. (a) Notwithstanding sec. 90(d) of this chapter, coverage may be provided for a lien listed as an exception to title if the insurer

(1) has been named as an obligee in a surety bond executed by an admitted surety company covering the lien;

(2) has, if a mechanics', materialmens', or labor lien under dispute, evidence of a bond for disputed amounts recorded under to AS 34.35.072; or

(3) has been named and protected in an indemnity agreement for the full amount of the lien and the indemnity agreement has been secured by collateral under sec. 110 of this chapter.

(b) If an insured, under an existing title policy, upon a proposed sale or mortgaging of the property, is presented with the fact of a current valid and outstanding encumbrance to the title, outstanding at the time of issuance of the existing coverage, objectionable to the proposed buyer or lender and not excepted from coverage under the existing title policy, the existing insurer must, upon demand by its insured provide indemnity up to the full amount of liability outstanding on its existing title policy to the insurer selected by the buyer or mortgagor for any new policy against all loss arising out of that encumbrance or otherwise cause elimination of the encumbrance.

(c) An indemnity agreement under this section must be collateralized by a security interest in allowable assets to pay amounts disputed if the lien is determined to be proper unless the indemnity is given by

(1) a title insurance company or a title reinsurance company authorized to transact business within the State of Alaska; or

(2) a state or federal bank; or,

(3) a person, as defined in AS 01.10.060(7), with an audited financial statement prepared by a certified public accountant showing a net worth of at least $1,000,000; such a statement must bear an effective date of not more than 12 months before the effective date of the indemnity agreement; the indemnity agreement must not exceed 10 percent of the audited net worth of the person. (Eff. 11/23/78, Reg. 68)

Authority: AS 21.06.090(a)
AS 21.36.030
AS 21.36.080
AS 21.66.170
AS 21.66.180

3 AAC 27.110. COLLATERALIZED SECURITY FAVORING TITLE INSURER. (a) An indemnity agreement favoring an insurer may be issued in an amount equal to the estimated liability of the lienee if the lien is found to be valid and may be secured only as noted in (b) through (f) of this section.

(b) Collateral must be in cash or in property allowed as an investment by AS 21.21.060-130, 225, 230 and 260.

(c) The value of collateral referred to in

(1) AS 21.21.225 and 230 and cash must be no less than 100 percent of the maximum liability of the indemnity;

(2) AS 21.21.060-130 must be no less than 110 percent of the maximum liability of the indemnity; and

(3) AS 21.21.260 must be no less than 150 percent of the maximum liability of the indemnity.

(d) The aggregate amount of collateral securing all indemnities except cash or property referred to in AS 21.21.260, when combined with like properties held for the insurer, must not exceed the permissible limit established for that property as an investment under AS 21.21.

(e) When property referred to in AS 21.21.060-130, 225, and 230 is used to collateralize an indemnity under this section, it is subject to the following requirements:

(1) the collateral must be otherwise unencumbered;

(2) the security interest must be perfected as required, for each type of collateral, by Uniform Commercial Code - Secured Transaction (AS 45.05.690-794); and

(3) a security interest in any collateral must include a security interest in the rents, issues, profits and proceeds of sale or maturity of the collateral.

(f) When the collateral is property referred to in AS 21.21.260, it is subject to the following requirements:

(1) the value of the real estate mortgaged must be established by an appraisal completed not more than 90 days before the time the indemnity is taken or must be valued at the assessed valuation for property tax purposes; and

(2) any improvements must be insured to replacement value for fire and extended coverage. (Eff. 11/23/78, Reg. 68)

Authority: AS 21.06.090(a)
AS 21.21
AS 21.66.180

3 AAC 27.120. TITLE PLANTS. (a) Title plants in this state are subject to the minimum standards of adequacy for:

(1) tract indices, as set forth in (b)-(e) of this section;

(2) maps, as set forth in (f) of this section; and

(3) general index, as set forth in (g) of this section.

(b) Tract indices are to be a reference record of all documents and proceedings which affect real property in the recording district, including matters recorded with the district recording office for the recording district covered by the plant. Maintenance in the plant of items contained in the Federal Register is not mandatory.

(c) Tract indices relating to recorded plats are to be kept separately as to each plat and may be referred to either by name or number.

(d) Tract indices may be kept on ledger sheets, separate cards, sheets or film, either bound in books or contained in envelopes or storage files, or the indices may be kept on punch card, computer tape, disc, or similar machine compatible form. The tract index must contain a reference to all deeds, contracts, suits, liens, unsatisfied mortgages and other matters of record which specifically describe the real property.

(e) A currently posted tract index must be one in which the postings are made at regular intervals which do not exceed 30 days from the date recorded material becomes available.

(f) Adequate maps are such maps which enable anyone working the title plant to locate a tract of land which may be the subject of a title search, in accordance with the accepted practices in general use for the description of real property within the locality and with particular reference to the government survey system. Maps should be of such scale as to make them workable. A record must be kept of all recorded plats.

(g) A general index must be a complete compilation of all general matters affecting real property which do not describe or cannot be assigned to a specific parcel of real property. Information in the general index must be in such order, either alphabetically or through a phonetic system, that any record pertaining to any person by name can be ascertained. Such index to be complete must consist of the following items, which may be found by a search of, but is not limited to, the proper records within the recording district:

(1) unsatisfied judgments and tax liens (both state and federal);

(2) guardianships and estates of deceased persons;

(3) divorces (closed or pending); and

(4) powers of attorney. (Eff. 11/23/78 Reg. 68)

Authority: AS 21.06.090(a)
AS 21.66.200

3 AAC 27.130. TITLE PLANT SECURITY. (a) Each insurer must insure each title plant it maintains or in which it participates in this state with valuable papers insurance, or alternative approved by the director, in an amount equivalent to the replacement cost of the plant but not less than the valuation of the plant as an asset as noted in AS 21.66.240.

(b) Each insurer must file with the director for approval a contingency plan for replacement of each title plant it maintains or in which it participates in this State in the event of partial or total destruction of the plant. The plan must include:

(1) the method of replacement;

(2) the estimated current cost of replacement;

(3) the estimated time to rebuild the plant; and

(4) the procedure for interim underwriting.

(c) If an insurer does not value the title plant as an admitted asset, the requirements of (a) and (b) of this section are waived. (Eff. 11/23/78 Reg. 68)

Authority: AS 21.06.090(a)
AS 21.66.200
AS 21.66.240

3 AAC 27.300. DEFINITIONS. In secs. 10-300 of this chapter:

(1) "acknowledgement of receipt" means the procedure by which the Division of Insurance, upon reciept of a document, stamps the document with the date it was received and the word "received" and returns a copy of the document so stamped to the person having filed it;

(2) "agent" means title insurance agent;

(3) "commitment" means any offer by the title insurance company or its agent to issue or provide title insurance coverage for a person, directly or indirectly, regardless of the conditions, exclusions, exceptions or limitations of the offer;

(4) "construction has commenced" means the point in time at which materials are first delivered to the property or initial clearing, excavation or prepartion works has been started;

(5) "encumbrance" includes liens, judgments, defects, covenants, and easements;

(6) "examination" means the evaluation of documents searched to determine the present state of title;

(7) "insurer" means title insurance company;

(8) "illusory benefits" means of benefits ordinarily provided, but which have been excepted on a title insurance policy; and

(9) "lien" means a charge upon real property for the satisfaction of a debt or duty arising by operation of law or contract; and

(10) "search" means a review of all documents on public record to identify those which may impart constructive notice of matters relating to interests in particular land, whether done from the public records themselves or copies and indexes of them maintained in a title plant. (Eff. 11/23/78, Reg. 68)

Authority: AS 21.06.090(a)
AS 21.66

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907 277 4511

March 5, 1986

Honorable Mike Navarre, Chairman
Labor and Commerce Committee
Alaska House of Representatives
P. O. Box V
Juneau, AK 99811

Re: HB499 HB494

Dear Mr. Chairman:

At the committee's February 26 hearing on this bill, Mr. Cotten asked if I would expand in writing upon my testimony that the bill is not integrated with existing law that it would not change and, so, would, if enacted, raise a host of difficulties. I write this letter in response to that request.

Sections 1 and 2 of the bill would amend AS 34.35.060 to give all "original construction" materialmen, subcontractors and prime contractors liens having "equal priority" with any "prior recorded encumbrance". Its passage would create the following problems:

(a) It is most unlikely that the "prior recorded encumbrances" to which mechanic's liens are to become "equal" will have equal ranking among themselves.

AS 34.15.290 -- as a cheif example, and as the basic Alaska law respecting the ranking of interests in real property -- gives disparate validity to such "prior recorded encumbrances". It specifies that the mortgage B acquires and records is inferior in right to the prior recorded mortgage of A, superior to the subsequently recorded mortgage of C. Yet HB494 would give mechanic's liens a priority equal with that A, B and C -- which is to say, apparently, that C and B are also elevated to equality with A, in spite of AS 34.15.290 and in spite of the fact that none of them bargained for that treatment.

Imagine the collusion that would invite between C (or B) and a potential lien claimant.

(b) The lien claims that are given "equal priority with a prior recorded encumbrance" are themselves of unequal status. AS 34.35.112 ranks mechanic's liens in order of preference.

(c) The bill will assure that a failed construction project will result in the property's being tied up -- probably in an incompleted and very much "at risk" condition -- while lien claimants, other encumbrancers, and owners litigate their various (and, by the bill, very uncertain) claims against one another and the property. Who of those disputants is going to pay the costs (or bear the risks) of the property's simply standing idle (taxes, insurance, liability for injury to persons or property, risks of casualty loss), let alone the costs of completing the project? Who, in those circumstances, would want to buy the property (from whom could he buy it)?

(d) It has been argued in support of the bill that the litigation required by the current §062 is expensive and burdensome. Perhaps that is true, but that expense and burden pales in comparison to the litigation that this "equal priority" notion would cause. (Prior to the 1978 and 1979 amendments, which HB494 would largely undo, the courts were choked with seemingly unending, multiple party, complex lien litigation, almost all of which abruptly stopped when the amendments took effect.)

(e) The bill would give "parity" to claimants who have no obligation to give their "peers" so much as notice of their existence, let alone prompt notice of the fact and amount of any payment delinquency that might give rise to a lien claim.

(f) The bill gives "equal priority" only to liens "for original construction". What is "original construction", and how does it differ from "construction" (which is defined at §120(2) in such a way that no construction can fail to be "original")?

Section 3. Clarifying and streamlining §062 is a laudable objective. But HB494's amendments promise to make matters worse, not better.

(a) To whom are the lender, owner and general contractor to make the new "certifications" called for by the proposed amendment to (a)(1)? What purpose is served by the requirement that they be "signed and verified" or, for that matter, in writing? It is the purpose of "construction financing" that the

funds be used to pay construction costs, and it is the essence of the contract between borrower and lender that the borrower apply the funds to that purpose.

(b) There is no obligation that the claimant give the stop notice to the owner (borrower) at the same time as he gives it to the lender. By simply delaying notice to the owner, a claimant can assure that the owner will not make objection in time to prevent the "direct payment" called for by the proposed §(a)(5).

(c) The requirement in (a)(5) that the lender "disburse the sums jointly" to two (or more) persons who are, by definition, in dispute as to who is entitled to the "sums" is impossible of accomplishing.

The lender can, it's true, issue a multi-party check. But issuing a check does not pay or disburse anything. "Disbursement" does not occur until the check is presented and paid. Payment of a check can be challenged and invalidated by any payee who has not endorsed the check. None of the payees is apt to endorse the check, and allow another payee to collect it, until the dispute as to who's entitled to the proceeds is resolved. The law now obliges the lender to hold the funds until the dispute is resolved -- either by agreement or litigation. The "joint disbursement" amendment will simply give one of the parties - the one who has the "joint check" -- the temptation to forge the other's endorsements and collect the check.

And to which of the disputants, for the matter, is the lender to give the "joint disbursement" check?

Section 4. How -- under what circumstances -- can a lender be liable to a borrower (owner) for having made loan disbursements directly to the borrower that it was supposed, instead, either not to have made at all or to have set aside for someone else?

Section 5. What ever does this mean? A lender either will or will not have made post-notice disbursements that it did not set aside for the claimant. If it has, it will be liable to the claimant without regard to what other purpose the loan proceeds were put.

How a lender can "satisfy a borrower's (owner's) obligations to a lender" by lending yet more money to the borrower is itself a mystery. But if he can find a way to do such a thing, no amendment is needed to make it clear that he has "violated" §062.

Section 6. This section would add yet another kind of "notice" to the lien statutes' calendar of notices. Much of the confusion

people seem to be experiencing with the lien law appears to derive from the law's plethora of kinds of notice.

It would seem as though the office of this new "notice of intent" could be served, as well, by the "notice of right to lien" that the statute already calls for.

I hope that the committee will find these remarks to be helpful in its consideration of the bill.

Very truly yours,

John R. Beard

JRB:cam

cc: Representative Cotten
Representative Phillips
W. Coyner
R. Enberg

RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

9/5/89
Date

02-519 (REV 8/78)

HB

503

REPRESENTATIVE
MIKE NAVARRE

DISTRICT 5A

CHAIR, LABOR & COMMERCE
VICE-CHAIR, STATE AFFAIRS

Alaska State Legislature

House of Representatives

HOME ADDRESS
P O BOX E
KENAI, ALASKA 99611
(907) 283-7813

WHILE IN SESSION
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3893

TO: COMMITTEE MEMBERS

FROM: REP. MIKE NAVARRE

RE: HB503 "AN ACT RELATING TO ICE CLASSICS"

HB503 simply adds Kenai River Ice Classic to the three existing ice classics in the state. The proceeds will be distributed by the Kenai and Soldotna Rotary Clubs to the following, in order of priority:

1. Youth Scholarships
2. Local, Community Services
3. Statewide, Community Services
4. International, Community Services

Original sponsors: Navarre and Marrou
by request

IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 503 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to games of chance."

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

* Section 1. AS 05.15.100(a) is amended to read:

(a) The commissioner of revenue may issue a permit to a municipality or qualified organization. The permit gives the municipality or organization the privilege of conducting bingo, raffles and lotteries, ice classics, rain classics, goose classics, dog mushers' contests, fish derbies, and contests of skill.

* Sec. 2. AS 05.15.180(b) is amended to read:

(b) With the exception of raffles, lotteries, rain classics, goose classics, and other activities authorized under AS 05.15.100(b), an activity may not be licensed under this chapter unless it existed in the state in substantially the same form and was conducted in substantially the same manner before January 1, 1959.

* Sec. 3. AS 05.15.210(12) is amended to read:

(12) "ice classic" means a game of chance where a prize of money is awarded for the closest guess of the time the ice moves in a body of water or watercourse in the state and is limited to the Nenana and Chena Ice Pools in the same manner as they were conducted in 1959 and previous years, [AND] a Kuskokwim Ice Classic to be operated and administered by Bethel Social Services, Inc., and a Kenai River Ice Classic to be operated and administered by the Kenai and Soldotna Rotary clubs;

* Sec. 4. AS 05.15.210 is amended by adding a new paragraph to read:

(24) "goose classic" means a game of chance where a prize of money is awarded for the closest guess of the time of the arrival of the first goose in spring to Creamer's Field in Fairbanks and is limited to the goose classic operated and administered by the Fairbanks Montessori Association.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/6/86

REQUEST
Bill/Resolution No: HB 503
Title: An Act Relating to Ice Classics

Sponsor: Navarre/Marrou
Requestor: House Finance
Date of Request: January 26, 1986

FISCAL DETAIL
Agency Affected: Revenue
BRU: Public Services

Components: Public Services Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LAND & STRUCTURES	-	-	-	-	-	-
GRANTS/CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-
FUNDING: (Thousands of Dollars)						
GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-
POSITIONS:						
FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

Prepared by: Sally Smith
Division: Public Services
Phone: 465-2392
Date: February 6, 1986

Approved by
Commissioner: Mary A. Sandvik
Agency: Revenue
Date: 2/10/86

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management & Budget
Impacted Agency(ies)

Sally

Introduced: 1/24/86
Referred: Labor & Commerce,
Judiciary and Finance

IN THE HOUSE

BY NAVARRE AND MARROU
BY REQUEST

HOUSE BILL NO. 503

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to ice classics."

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

* Section 1. AS 05.15.210(12) is amended to read:

(12) "ice classic" means a game of chance where a prize of money is awarded for the closest guess of the time the ice moves in a body of water or watercourse in the state and is limited to the Nenana and Chena Ice Pools in the same manner as they were conducted in 1959 and previous years, [AND] a Kuskokwim Ice Classic to be operated and administered by Bethel Social Services, Inc., and a Kenai River Ice Classic to be operated and administered by the Kenai and Soldotna Rotary clubs;

RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made

James O. Smith
Signature of Camera Operator

9/5/89
Date

02-519 (REV 8/78)

HB

506

HOUSE
COMMITTEE REPORT

JUDICIARY

(7)

Date referred: 2/19/86

FURTHER REFERRALS: FINANCE

DATE: March 20, 1986

The LABOR & COMMERCE Committee has considered SSHB 506

"An Act relating to insurance; and providing for an effective date."

and recommends:

[X] do pass

[ ] do not pass

[ ] do pass with attached amendment(s)

[ ] no recommendation

[X] replace with CSSS 506 [X] same title

[ ] new title

and recommends _____

[ ] further referral to the _____ Committee

and attaches: [ ] letter of intent
[ ] first fiscal note
[ ] new fiscal note
[ ] zero fiscal note

SIGNING DO PASS:

Mike Navarre

SIGNING OTHER RECOMMENDATIONS:

Mike Navarre
Chairman

Lauterbach
3/17/86

Original sponsors: Taylor, Gruenberg,
Larson, et al

IN THE HOUSE BY THE LABOR AND COMMERCE COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 506 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

* Section 1. AS 21 is amended by adding a new chapter to read:

CHAPTER 76. JOINT INSURANCE ARRANGEMENTS.

Sec. 21.76.010. AUTHORITY TO ESTABLISH JOINT INSURANCE ARRANGEMENTS. (a) Municipalities, school districts, and regional educational attendance areas may enter into cooperative agreements with each other for the purpose of establishing, operating, or participating in joint insurance arrangements through which the participating members agree to pool contributions and

(1) assume risks from losses on a group basis; or

(2) purchase coverage on a group basis.

(b) A joint insurance arrangement may be for any kind of insurance defined by this title except for life insurance and title insurance.

(c) A joint insurance arrangement shall be considered an alternative or supplement to any other policy or contract of insurance authorized or required by law, including insurance under AS 21.75.

Sec. 21.76.020. REGULATION BY DIVISION OF INSURANCE. A joint insurance arrangement may not be considered insurance for the purpose of any other law of the state and is not subject to regulations of the director except as expressly provided in this chapter.

Sec. 21.76.030. GENERAL PROVISIONS OF COOPERATIVE AGREEMENTS. A

cooperative agreement shall provide for the proper operation of the joint insurance arrangement, and include provisions for

(1) administration of the arrangement by a board of directors, specifying the number of members of the board and other requirements necessary for the proper functioning of the board;

(2) appointment of an administrator and other persons as necessary for the proper functioning of the arrangement;

(3) organization of the arrangement, including a roster of participating members and the names of the members of the board of directors;

(4) procedures to establish and promote an aggressive risk management and program among the members of the arrangement, including procedures for identifying and reducing the risks that can be reduced through implementing better safety technologies and improved work techniques and procedures;

(5) enforcing the collection of contributions or payments in default from members of the arrangement;

(6) the addition of new members to the arrangement or the withdrawal of members from the arrangement;

(7) the method of apportioning costs and disposition of excess contributions;

(8) transmission of financial statements and audit reports of the arrangement to participating members;

(9) terminating the arrangement and disposing of its assets; and

(10) establishing and administering a joint insurance fund.

Sec. 21.76.040. FINANCIAL PROVISIONS OF AGREEMENTS. (a) A cooperative agreement must include a provision requiring an annual determination by a casualty actuary who is a member of the American

Academy of Actuaries that procedures for establishing reserves for losses of the joint insurance arrangement are actuarially sound.

(b) A joint insurance arrangement shall be subject to an annual independent audit. The audit shall be conducted in accordance with generally accepted auditing standards and must include a review of the actuarial assumptions used for establishing the reserves under (a) of this section. The audit report must include certification from a casualty actuary who is a member of the American Academy of Actuaries that the actuarial assumptions continue to be sound and the level of the reserves are adequate.

(c) A joint insurance arrangement shall use a method of accounting that conforms with generally accepted government accounting principles.

Sec. 21.76.050. CONTRACTING WITH PRIVATE ADMINISTRATORS. A cooperative agreement may authorize the board of directors to enter into contracts for services necessary to perform the functions of a joint insurance arrangement. The person contracting to perform the functions must be appropriately licensed under this title if this title so requires.

Sec. 21.76.060. DELEGATION OF POWER TO SETTLE CLAIMS. A cooperative agreement may delegate to the board of directors, or authorize delegation by the board to another person or group, the power to compromise, arbitrate, or otherwise settle claims on behalf of the arrangement.

Sec. 21.76.070. EXCESS INSURANCE. A cooperative agreement may authorize the board of directors to purchase excess or catastrophic insurance on behalf of the joint insurance arrangement. The cost of the insurance shall be apportioned in the manner specified in the joint insurance agreement. The board may purchase insurance under

this section only from an insurer authorized to do business in the state or from an unauthorized insurer if the insurance is placed through a licensed surplus lines broker.

Sec. 21.76.080. JOINT INSURANCE FUND. (a) A joint insurance arrangement shall establish a joint insurance fund. The fund consists of money

(1) contributed by members of the joint insurance arrangement through budgetary appropriations or transfers from a self-insurance reserve;

(2) contributed by officers and employees of members of the joint insurance arrangement under an employee benefit plan; and

(3) collected by the joint insurance arrangement through subrogation of a claim paid from the fund to a member of the arrangement.

(b) An expenditure may be made from a joint insurance fund only to pay claims, losses, or benefits, including interest on them, and the administrative and adjustment expenses incurred in connection with them, involving the types of protection for which the fund provides coverage as specified in the joint insurance agreement.

(c) The administrator shall keep the fund separate from other funds of a member of a joint insurance arrangement.

(d) For each type of protection offered by the joint insurance arrangement, the method of accounting must show the order, source, date, and amount of each payment from the fund.

(e) Within 60 days of the end of the fiscal year, the administrator shall furnish a detailed report of the operation and condition of the fund to the board of directors and the director of insurance. The report furnished to the director of insurance shall be available for public inspection.

(f) Money held by a fund as reserves and money not needed for daily operations may be invested by the board of directors.

(g) A fund may not be terminated unless the administrator certifies that an amount of money sufficient to pay accrued and contingent expenditures has been placed in a fully collateralized escrow account.

Sec. 21.76.090. FILING OF AGREEMENT. The board of directors shall file a copy of the cooperative agreement with the director of insurance at least 60 days before the effective date of the agreement. The agreement shall be available for public inspection.

Sec. 21.76.100. REGULATIONS. A cooperative agreement may authorize the board of directors to adopt regulations not inconsistent with law for the fair and equitable administration of the joint insurance arrangement and the joint insurance fund.

Sec. 21.76.110. SUBROGATION. A joint insurance arrangement has a cause of action for reimbursement of money paid to a participating member for a loss or injury if the participating member recovers money for the loss or injury from a third party. The joint insurance arrangement also has a direct cause of action for reimbursement against a third party responsible for loss or injuries sustained by a participating member if the joint arrangement has paid money to the participating member for the loss or injuries.

Sec. 21.76.900. DEFINITIONS. In this chapter

(1) "adjustment expenses" means expenses for investigative, processing, legal, actuarial, arbitration, and settlement services incurred in the adjustment of losses, claims, or benefits;

(2) "administrator" means a person or group appointed by the board of directors to administer a joint insurance arrangement or a joint insurance fund;

(3) "board" or "board of directors" means the board of

directors provided for in a cooperative agreement;

(4) "cooperative agreement" means a written agreement entered into by two or more entities described in AS 21.76.010 for the purpose of establishing, operating, or participating in a joint insurance arrangement;

(5) "fund" or "joint insurance fund" means a fund established under AS 21.76.080;

(6) "joint insurance arrangement" means a joint insurance arrangement authorized under AS 21.76.010.

* Sec. 2. AS 21.39.155(a) is amended to read:

(a) The director may require carriers, except a reciprocal insurer formed by and insuring only a group of municipalities or nonprofit public utilities under AS 21.75 or a joint insurance arrangement formed under AS 21.76, as a condition of writing a line of insurance dealing with workers' compensation, to participate in an assigned risk pool if the director finds that mandatory carrier participation is in the public interest.

* Sec. 3. AS 21.80.180(5) is amended to read:

(5) "insolvent insurer" means an insurer

(A) authorized to transact insurance in this state, except an assessable reciprocal insurer formed by and insuring only municipalities or nonprofit public utilities, a joint insurance arrangement formed under AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health Care Providers Joint Underwriting Association established under AS 21.88, either at the time the policy was issued or when the insured event occurred, and

(B) determined to be insolvent by a court of competent jurisdiction;

* Sec. 4. AS 21.80.18(6) is amended to read:

(6) "member insurer" means a person, except an assessable reciprocal insurer formed by and insuring only municipalities or nonprofit public utilities, a joint insurance arrangement formed under AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health Care Providers Joint Underwriting Association established under AS 21.88, who

(A) writes any kind of insurance to which this chapter applies under AS 21.80.020 including the exchange of reciprocal or interinsurance contracts, and

(B) is licensed to transact insurance in this state;

* Sec. 5. AS 21.36.190 is repealed.

* Sec. 6. This Act takes effect immediately in accordance with AS 01.-10.070(c).

IN THE HOUSE

BY TAYLOR, GRUENBERG, LARSON, SUND, SHULTZ, KOPONEN AND JENKINS

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 506

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

* Section 1. AS 21 is amended by adding a new chapter to read:

CHAPTER 76. JOINT INSURANCE ARRANGEMENTS.

Sec. 21.76.010. AUTHORITY TO ESTABLISH JOINT INSURANCE ARRANGEMENTS. (a) Municipalities, school districts, and regional educational attendance areas may enter into cooperative agreements with each other for the purpose of establishing, operating, or participating in joint insurance arrangements through which the participating members agree to pool contributions and

(1) assume risks from losses on a group basis; or

(2) purchase coverage on a group basis.

(b) A joint insurance arrangement may be for any kind of insurance defined by this title except for life insurance and title insurance.

(c) A joint insurance arrangement shall be considered an alternative or supplement to any other policy or contract of insurance authorized or required by law, including insurance under AS 21.75.

Sec. 21.76.020. REGULATION BY DIVISION OF INSURANCE. A joint insurance arrangement may not be considered insurance for the purpose of any other law of the state and is not subject to regulations of the director except as expressly provided in this chapter.

Sec. 21.76.030. GENERAL PROVISIONS OF COOPERATIVE AGREEMENTS. A

cooperative agreement shall provide for the proper operation of the joint insurance arrangement, and include provisions for

(1) administration of the arrangement by a board of directors, specifying the number of members of the board and other requirements necessary for the proper functioning of the board;

(2) appointment of an administrator and other persons as necessary for the proper functioning of the arrangement;

(3) organization of the arrangement, including a roster of participating members and the names of the members of the board of directors;

(4) procedures to establish and promote an aggressive risk management and program among the members of the arrangement, including procedures for identifying and reducing the risks that can be reduced through implementing better safety technologies and improved work techniques and procedures;

(5) enforcing the collection of contributions or payments in default from members of the arrangement;

(6) the addition of new members to the arrangement or the withdrawal of members from the arrangement;

(7) the method of apportioning costs and disposition of excess contributions;

(8) transmission of financial statements and audit reports of the arrangement to participating members;

(9) terminating the arrangement and disposing of its assets; and

(10) establishing and administering a joint insurance fund.

Sec. 21.76.040. FINANCIAL PROVISIONS OF AGREEMENTS. (a) A cooperative agreement must include a provision requiring an annual determination by a casualty actuary who is a member of the American

Academy of Actuaries that procedures for establishing reserves for losses of the joint insurance arrangement are actuarially sound.

(b) A joint insurance arrangement shall be subject to an annual independent audit. The audit shall be conducted in accordance with generally accepted auditing standards and must include a review of the actuarial assumptions used for establishing the reserves under (a) of this section. The audit report must include certification from a casualty actuary who is a member of the American Academy of Actuaries that the actuarial assumptions continue to be sound and the level of the reserves are adequate.

(c) A joint insurance arrangement shall use a method of accounting that conforms to generally accepted government accounting principles.

Sec. 21.76.050. CONTRACTING WITH PRIVATE ADMINISTRATORS. A cooperative agreement may authorize the board of directors to enter into contracts for services necessary to perform the functions of a joint insurance arrangement. The person contracting to perform the functions must be appropriately licensed under this title if this title so requires.

Sec. 21.76.060. DELEGATION OF POWER TO SETTLE CLAIMS. A cooperative agreement may delegate to the board of directors, or authorize delegation by the board to another person or group, the power to compromise, arbitrate, or otherwise settle claims on behalf of the arrangement.

Sec. 21.76.070. EXCESS INSURANCE. A cooperative agreement may authorize the board of directors to purchase excess or catastrophic insurance on behalf of the joint insurance arrangement. The cost of the insurance shall be apportioned in the manner specified in the joint insurance agreement. The board may purchase insurance under

this section only from an insurer authorized to do business in the state or from an unauthorized insurer if the insurance is placed through a licensed surplus lines broker.

Sec. 21.76.080. JOINT INSURANCE FUND. (a) A joint insurance arrangement shall establish a joint insurance fund. The fund consists of money

(1) contributed by members of the joint insurance arrangement through budgetary appropriations or transfers from a self-insurance reserve;

(2) contributed by officers and employees of members of the joint insurance arrangement under an employee benefit plan; and

(3) collected by the joint insurance arrangement through subrogation of a claim paid from the fund to a member of the arrangement.

(b) An expenditure may be made from a joint insurance fund only to pay claims, losses, or benefits, including interest on them, and the administrative and adjustment expenses incurred in connection with them, involving the types of protection for which the fund provides coverage as specified in the joint insurance agreement.

(c) The administrator shall keep the fund separate from other funds of a member of a joint insurance arrangement.

(d) For each type of protection offered by the joint insurance arrangement, the method of accounting must show the order, source, date, and amount of each payment from the fund.

(e) Within 60 days of the end of the fiscal year, the administrator shall furnish a detailed report of the operation and condition of the fund to the board of directors and the director of insurance. The report furnished to the director of insurance shall be available for public inspection.

(f) Money held by a fund as reserves and money not needed for daily operations may be invested by the board of directors.

(g) A fund may not be terminated unless the administrator certifies that an amount of money sufficient to pay accrued and contingent expenditures has been placed in a fully collateralized escrow account.

Sec. 21.76.090. FILING OF AGREEMENT. The board of directors shall file a copy of the cooperative agreement with the director of insurance at least 60 days before the effective date of the agreement. The agreement shall be available for public inspection.

Sec. 21.76.100. REGULATIONS. A cooperative agreement may authorize the board of directors to adopt regulations not inconsistent with law for the fair and equitable administration of the joint insurance arrangement and the joint insurance fund.

Sec. 21.76.110. SUBROGATION. A joint insurance arrangement has a cause of action for reimbursement of money paid to a participating member for a loss or injury if the participating member recovers money for the loss or injury from a third party. The joint insurance arrangement also has a direct cause of action for reimbursement against a third party responsible for loss or injuries sustained by a participating member if the joint arrangement has paid money to the participating member for the loss or injuries.

Sec. 21.76.900. DEFINITIONS. In this chapter

(1) "adjustment expenses" means expenses for investigative, processing, legal, actuarial, arbitration, and settlement services incurred in the adjustment of losses, claims, or benefits;

(2) "administrator" means a person or group appointed by the board of directors to administer a joint insurance arrangement or a joint insurance fund;

(3) "board" or "board of directors" means the board of

directors provided for in a cooperative agreement;

(4) "cooperative agreement" means a written agreement entered into by two or more entities described in AS 21.76.010 for the purpose of establishing, operating, or participating in a joint insurance arrangement;

(5) "fund" or "joint insurance fund" means a fund established under AS 21.76.080;

(6) "joint insurance arrangement" means a joint insurance arrangement authorized under AS 21.76.010.

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

CHAPTER 79. ALASKA REINSURANCE FUND.

Sec. 21.79.010. REINSURANCE FUND ESTABLISHED. (a) The Alaska reinsurance fund is established as an account in the general fund. The fund consists of appropriations made to it by law for the purposes of this chapter.

(b) Money in the fund may be used to

(1) make loans to domestic reciprocal insurers, domestic cooperative insurers, and joint underwriting associations;

(2) pay reinsurance claims under the reinsurance coverage provided under AS 21.79.050; and

(3) pay administrative expenses of the division of insurance that are necessary or appropriate to carry out the purposes of this chapter.

Sec. 21.79.020. HEARINGS ON AVAILABILITY OF INSURANCE. (a) Within 30 days after receiving an application by a manufacturer, service provider, a group or association representing manufacturers or service providers, an Alaska domestic reciprocal insurer, domestic cooperative insurer, or the Medical Indemnity Corporation of Alaska, the division shall hold a hearing on the availability and rate

structures of adequate commercial general liability insurance and other lines of liability and property insurance for the applicant or members of the applicant group or association.

(b) In addition to hearings under (a) of this section, the division may hold a hearing on the availability and rate structure of adequate commercial general liability insurance and other lines of liability and property insurance after a finding by the director that the line of insurance has become unavailable or that rates in the state are excessive.

Sec. 21.79.030. DETERMINATION OF AVAILABILITY OF INSURANCE. (a) Within 30 days after a hearing under AS 21.79.020, the director shall determine in writing, by order, based on the hearing record, whether the insurance at issue in the hearing is, and will be, reasonably available at rates neither excessive nor inadequate to cover anticipated claims of the applicant or applicants.

(b) If the director determines under (a) of this section that a line of insurance is not, or will not be available at rates neither excessive nor inadequate, the director may implement the provisions of AS 21.79.040.

Sec. 21.79.040. INSURANCE JOINT UNDERWRITING ASSOCIATIONS. (a) After a determination of unavailability or inadequate or excessive rates under AS 21.79.030(b), the director may encourage and assist insurers licensed to operate in the state to join together in joint underwriting associations for the purpose of assuming, on the terms and conditions they agree to, a reasonable portion of responsibility for the adjustment and payment of claims arising from product, service, or operationally related property damage, injuries, disabilities, illnesses, and deaths.

(b) The director, in accordance with appropriate standards of

financial responsibility, accounting, operation, risk of loss, loss control and underwriting, on application of a party or parties listed in AS 21.79.020(a) may authorize modification of the capital and surplus provisions of AS 21.75.010 - 21.75.340, relating to domestic reciprocal insurers and cooperative insurers.

(c) Money from the joint underwriting associations established under (a) of this section may be used only to pay claims resulting from product service, operations, or related actions in excess of amounts that are established each year by the director as capital and surplus. The director may establish different amounts for each insurer or joint underwriting association based on the needs of the insureds and joint underwriting association members, and other relevant factors.

(d) Joint underwriting associations established under this section may be funded by premiums paid by those entities listed in AS 21.79.020(a) to insurers or to their attorney in fact approved by the director. If the director finds, after notice and hearing, that the premiums charged by the insurers or joint underwriting associations make the insurance from the joint underwriting associations unavailable or available at a rate excessive for manufacturers, service providers or other entities listed in AS 21.79.020(a), the director may amend the terms and conditions of reinsurance under AS 21.79.050 to decrease the premiums to be paid, approve loans from AS 21.79.010 funds to joint underwriting associations, or take other actions authorized by law.

Sec. 21.79.050. REINSURANCE COVERAGE. (a) After a finding under AS 21.79.030(b) of unavailability or availability only at excessive rates, the director may take necessary action to make reinsurance coverage available to the joint underwriting associations formed under

AS 21.79.040 or to Alaska domestic reciprocal insurers, Alaska domestic cooperative insurers, or the Medical Indemnity Corporation of Alaska. The director may also make reinsurance available directly to insurers that participate in joint underwriting associations established under AS 21.79.040 for the portion of their business that is related to a line of insurance that the director determines is unavailable or available only at excessive rates under AS 21.79.040. Action authorized under this subsection includes the authority to enter into a contract with a reciprocal insurer, cooperative insurer, the Medical Indemnity Corporation of Alaska, or joint underwriting association for reinsurance coverage based on a premium, fee, or other charge set by the director, and to approve loans from the reinsurance fund.

(b) The director shall include in a contract or arrangement under this section the terms the director considers necessary to carry out the purposes of this chapter and to protect state funds loaned or entrusted. The reinsurance may be subject to deductibles and other restrictions and limitations determined by the director to be prudent. Premiums collected shall be paid into the general fund.

(c) The director may not provide reinsurance under this section to a manufacturer, service provider, insurer, Medical Indemnity Corporation of Alaska, or joint underwriting association that

(1) the director determines to have assets below acceptable limits of capital or surplus; or

(2) has not adopted reasonable protective measures to prevent loss, consistent with standards adopted by the director under AS 21.79.100(a).

(d) Reinsurance offered under this section shall reimburse an insurer or joint underwriting association for its total proved and

approved claims for covered losses resulting from product, service, or operationally related property damage, injuries, disabilities, illnesses, and deaths during the term of the reinsurance contract or other agreement, above the amount of the insurer's or joint underwriting association's retention of the losses as provided in the reinsurance contract.

(e) Reinsurance claims under this section shall be paid from the fund established in AS 21.79.010 within 90 days of receipt by the director of proof of loss.

Sec. 21.79.060. CONTRACTING WITH INSURANCE COMPANIES. The director may contract with a licensed insurer, agent, broker, or insurance service organization to administer a program or programs established under this chapter, except that the director may not delegate the responsibilities described in AS 21.79.020.

Sec. 21.79.100. GENERAL RESTRICTIONS ON PROGRAMS UNDER THIS CHAPTER. (a) The director shall ensure that programs operated under this chapter

(1) do not act as disincentives for improvements in product safety, safe service delivery, or safe operating practices;

(2) promote product safety, safe service delivery, and safe operating practices through the establishment of models and programs for risk management and loss control that are agreed on by the director, joint underwriting associations, insurers, and insureds and approved by the director as a prerequisite for eligibility for the programs under this chapter.

(b) A manufacturer, service provider, or other entity listed in AS 21.79.020 that benefits from a program under this chapter, shall agree that the relevant product or service will remain available to the public during the period in which the manufacturer, service

provider, or other entity participates in the programs.

(c) An insurer that benefits from programs under this chapter shall agree that insurance that is written during the period in which the insurer or its insured manufacturer, service provider, or other entity listed in AS 21.79.020, participates in the programs will charge premiums that are based on an experience rate and that are not excessive or inadequate when based on reasonable assumptions and probabilities.

Sec. 21.79.110. ENFORCEMENT OF THIS CHAPTER. (a) At the request of the director, the attorney general shall bring an action in the appropriate court to recover from a person the amount of an unpaid reinsurance premium lawfully payable by the insurer to the director or to the manager selected under AS 21.79.060.

(b) An action under this section must be brought within five years of the date the right to payment accrued. If false or fraudulent conduct warrants, the claim is not considered to have accrued until its discovery.

(c) A recovery under this section shall be deposited in the general fund.

Sec. 21.79.200. PERIODIC REVIEW OF PROGRAMS. The director shall periodically review the programs operating under this chapter and annually report to the legislature within the first 10 days of each regular session, beginning with the Second Session of the Fifteenth Legislature, concerning

(1) whether the programs are effectively making commercial general liability and other essential lines of liability insurance readily available to the entities listed in AS 21.79.020;

(2) the director's recommendations for revising this chapter in order that it may more effectively achieve its purposes.

* Sec. 3. AS 21.39.155(a) is amended to read:

(a) The director may require carriers, except a reciprocal insurer formed by and insuring only a group of municipalities or nonprofit public utilities under AS 21.75 or a joint insurance arrangement formed under AS 21.76, as a condition of writing a line of insurance dealing with workers' compensation, to participate in an assigned risk pool if the director finds that mandatory carrier participation is in the public interest.

* Sec. 4. AS 21.80.180(5) is amended to read:

(5) "insolvent insurer" means an insurer

(A) authorized to transact insurance in this state, except an assessable reciprocal insurer formed by and insuring only municipalities or nonprofit public utilities, a joint insurance arrangement formed under AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health Care Providers Joint Underwriting Association established under AS 21.88, either at the time the policy was issued or when the insured event occurred, and

(B) determined to be insolvent by a court of competent jurisdiction;

* Sec. 5. AS 21.80.180(6) is amended to read:

(6) "member insurer" means a person, except an assessable reciprocal insurer formed by and insuring only municipalities or nonprofit public utilities, a joint insurance arrangement formed under AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health Care Providers Joint Underwriting Association established under AS 21.88, who

(A) writes any kind of insurance to which this chapter applies under AS 21.80.020 including the exchange of

reciprocal or interinsurance contracts, and

(B) is licensed to transact insurance in this state;

* Sec. 6. By the fifth day of the First Session of the Fifteenth Legislature, the commissioner of commerce and economic development shall report to the legislature concerning

(1) the nature and extent of anticipated use of the insurance industry in the delivery of reinsurance under sec. 2 of this Act to manufacturers, service providers, insurers, and joint underwriting associations;

(2) anticipated costs of providing reinsurance under sec. 2 of this Act;

(3) the identity of applicants that have contacted the department about the programs that would be authorized under this Act; and

(4) the identity of affected parties that might benefit from participation in the programs authorized under this Act.

* Sec. 7. AS 21.36.190 is repealed.

* Sec. 8. Sections 1 and 3 - 7 of this Act take effect immediately in accordance with AS 01.10.070(c).

* Sec. 9. Section 2 of this Act takes effect March 1, 1987.

ASSOCIATION OF ALASKA SCHOOL BOARDS
326 Fourth St., Suite 510 • Juneau Alaska 99801 • (907) 586-1083

TESTIMONY

of

Robert C. Greene
Executive Director
Association of Alaska School Boards

The Association of Alaska School Boards would like to state its support for HB 506, which would allow school districts to pool contributions and assume risks from losses on a group basis through a Joint Insurance Arrangement.

It appears that the present restrictive insurance market will continue as insurance companies attempt to write the better risks at a price designed to replace lost surplus and to attain financial stability. Insurance availability to school districts has been severely curtailed and coverage has been narrowed has the marketplace continues to harden. The result has created a hardship for school districts not only in their ability to adequately provide coverage, but in their attempt to budget for unanticipated increases in insurance premiums.

Many municipalities and school districts country-wide are implementing pooling programs as an alternative to the lack of affordable insurance available in the present insurance market. Prior to the current market restrictions, many school districts used group insurance purchasing as an alternative to pooling. This was attempted by the school districts in Alaska last July; however, due to the restrictive insurance market conditions, group purchase was not successful.

In a pooling program, losses are shared to some extent among participants. The advantage that pooling has over a group purchase program is the pool's collective ability to support a higher deductible (or self-insured retention) than any single member can afford.

The lower levels of insurance are the most expensive and require greater capacity from an insurance company than the higher levels. A pooling program can eliminate these expensive insurance layers and open up capacity from the insurance market. Such a program can also provide better stability in terms of cost of insurance to participants.

Attached is a summary of some information we have collected recently regarding the increased rates experienced by some school districts from 1984-85 to 1985-86. While the list represents slightly less than half of the state's school districts, we feel that this information can provide some insight into the impact that the insurance market is having on school districts.

The Association of Alaska School Boards appreciates the attention being given to school districts's insurance problems by the Alaska State Legislature and would encourage the Labor and Commerce Committee to view HB 506 favorably.

ASSOCIATION OF ALASKA SCHOOL BOARDS
SURVEY OF ALASKA SCHOOL DISTRICTS
INCREASE IN INSURANCE COSTS

1984-85 to 1985-86

SCHOOL DISTRICT	1984-85	1985-86	COMMENTS
Aleutian Region	$ 39,319	$ 101,234	*
Anchorage	414,652	1,582,280	Property/Casualty 85-86 Increased SIR
Bering Strait	348,842	896,708	
Bristol Bay	114,471	185,441	85-86 projected for Dec. 31 renewal
Chatham	30,628	44,000	*
Chugach	19,148	46,769	*
Copper River	96,045	197,583	See attached sample survey response
Cordova	28,020	23,344	85-86 may receive later adjustment
Delta/Greely	45,788	94,578	Property only
Galena	69,993	80,000	
Haines	26,078	36,161	
Hoonah	37,258	84,211	
Ketchikan	547,165	560,000	Insured through the Borough
Lake and Peninsula	203,353	314,516	
Matanuska/Susitna	474,461	923,185	
Railbelt	367,733	151,614	**
St. Mary's	66,963	139,196	**
Sitka	119,392	118,970	85-86 Increased deductibles
Valdez	Estimated rates for 85-86 would have been 85% to 150% higher if same coverages had been secured. However, types of coverage changed dramatically and comparisons wouldn't be logical.		
Wrangell	15,784	16,488	*
Yukon-Koyukuk	110,000	240,000	

* 1985-86 figure doesn't include all coverages that were carried in 1984-85
** Some coverage hasn't been billed for 85-86 so final costs will be higher

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

M E M O R A N D U M February 13, 1986

SUBJECT: Sectional Analysis
(SSHB 506)

TO: Representative Robin Taylor

FROM: Terri Lauterbach
Assistant Revisor of Statutes

Section 1 is based on a New York proposal and authorizes joint insurance arrangements as follows:

Sec. 21.76.010. Authorizes the entities specified to either jointly self-insure or to jointly purchase insurance as a group.

Sec. 21.76.020. Exempts joint insurance arrangements from regulation by division of insurance.

Sec. 21.76.030. Specifies that an agreement to form a joint insurance arrangement must include certain minimum provisions.

Sec. 21.76.040. Requires joint insurance agreements to contain certain financial provisions related to audits and accounting procedures.

Sec. 21.76.050. Allows a joint insurance arrangement to allow its board of directors to contract for administering the arrangement or any services that are part of the arrangement. This allows for an attorney-in-fact similar to current reciprocals (AS 21. 5).

Sec. 21.76.060. Allows delegation of power to settle claims.

Sec. 21.76.070. Allows purchase of catastrophic insurance on behalf of the joint insurance arrangement.

Sec. 21.76.080. Requires the joint insurance arrangement to establish a fund made up of money contributed by members. Restricts use of the fund and requires reports about its use.

Sec. 21.76.090. Requires filing of the agreement.

Sec. 21.76.100. Authorizes the board of directors of an arrangement to adopt regulations.

Sec. 21.76.110. Provides subrogation rights to the arrangement.

Sec. 21.76.900. Defines terms used in the chapter.

Section 2 of the draft represents the draft on reinsurance put together by the division of insurance.

Sec. 21.79.010. Establishes a reinsurance fund and specifies its uses.

Sec. 21.79.020. Provides for hearings on availability and rate structures of certain types of insurance.

Sec. 21.79.030. Requires director of insurance to make determination based on hearings; determination triggers next section.

Sec. 21.79.040. Allows director to assist development of joint underwriting associations. Allows director to modify certain provisions in AS 21.75 with respect to these JUA's.

Sec. 21.79.050. Allows state reinsurance for JUA's formed under preceding section.

Sec. 21.79.060. Allows director to contract for administration of programs under AS 21.79.

Sec. 21.79.100. Specifies that programs under the chapter must be operated with various factors in mind, including promotion of safety and experience-based rates.

Sec. 21.79.110. Allows actions by the Attorney General to recover unpaid reinsurance premiums due the state.

Sec. 21.79.200. Requires director to periodically review the JUA and reinsurance programs operating under the chapter and to recommend to the legislature any changes that would make the programs more effectively achieve their purposes.

Sections 3, 4, and 5 exempt joint insurance arrangements from certain statutes that already exempt municipal reciprocal insurers.

Section 6 requires a report from the commissioner of commerce and economic development.

Section 7 repeals a law that currently prohibits the formation of groups that comprise a group only for the purpose of insurance.

TL:mkr
M3:031

Robinson Homes

215 Corral Ave., Soldotna, Alaska 99669 (907) 262-5074 Cont. Lic. No. AA-5818

March 1, 1986

Rep. Mike Navarre
Alaska State House od Representatives
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Mike,

I would like to thank you for your hospitality while the Home Builders were in Juneau. I would also like to assure you and your staff that I continue to work hard here on the grass-roots level to promote that dearest of issues, close to all of our hearts: the swift passage of H.B 700!

H.B. 494

I feel that the position expressed in the Teleconference hearing on Feb. 26th by the Homebuilders represents middle ground, and that to do more than these suggested changes is to assure future Legislatures of having to correct the law back closer to what it is now. **Making the mis-appropriation of funds a criminal offense** should go a long way towards correcting the problems of the present law. Further, if Subs and Suppliers can simply file a **Right to Lien** instead of having to get an Acknowledgement of Right to Lien signed by the Owner of Record, this will make this part of the process much less onerous, and ultimately result in more Subs and Suppliers getting their money. The inclusion of **a criminal penalty for the filing of a false or fraudulent lien** would keep "grudge liens" from being the next problem we would have to deal with.

S.S.H.B. 506

In Chapter 76. JOINT INSURANCE ARRANGEMENTS., Sec. 21.76.010 AUTHORITY TO ESTABLISH JOINT INSURANCE ARRANGEMENTS., sub-section (a) should be amended further to include " and non-profit corporations".

FUNDING FOR MUNICIPAL PROJECTS IN SOLDOTNA FOR FY 1987

We in Soldotna are satisfied with the Governor's Capital Budget figures as they were passed to the House from the Senate. These represent the projects that are at the top of our priorities, and will allow us to move forward with plans to include traffic signalization in our Binkley Street Project next summer. Including Signalization at this time will ultimately cost less than doing it as a separate job later, and as you well know, is badly needed. We also need to expand our water and sewer on the south side of the Kenai River to allow for the Development of the Salamantof property, and the building of a much-needed Water Storage Tank.

Sincerely,

Mitchel L. Robinson

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

To: Representative Mike Navarre, Chairman
Members of the House Labor and Commerce Committee

From: Scott A. Burgess, Executive Director SAB

Date: March 7, 1986

Subject: Legislation Addressing Insurance Pooling (HB 506; HB 585)

The Alaska Municipal League, representing 116 direct member municipalities, strongly supports legislation that would enable municipalities to pool their insurance costs, and losses. Currently, municipal insurance pools, sponsored by state municipal leagues, are operating in 23 states. Never has any municipal insurance pool gone into default. Never has any municipal insurance pool been unable to pay a claim. All have been very successful.

Municipal insurance pooling lowers costs, and increases availability of insurance to municipalities. Pools offer municipalities a chance to pay premiums based solely upon loss history. In addition, municipalities in an insurance pool can recoup a portion of that premium through a year-end dividend payment, based upon their success at controling losses. Under a pool, the availability of insurance to municipalities would no longer be subject to the cycles of the general insurance market.

The AML has no position on the creation of the Alaska Reinsurance Fund, proposed in HB 506. If legislation allowing the formation of a municipal insurance pool were passed, the AML would most likely obtain reinsurance from the National League of Cities, which will begin offering reinsurance on May 1 of this year through a reinsurance pool supported by the 23 state municipal league pools currently in operation. In addition, several other reinsurance opportunities would be available to an Alaska Municipal League insurance pool, due to the success, and past performance, of the League's current insurance program. Though not a pool, the League currently sponsors a program which is providing insurance to over 75 municipalities and school districts in the State for worker's compensation, general liability, business auto, and errors and omissions coverage for law enforcement, public officials, and school board members.

House Bill 585 currently includes only school districts, but the bill could easily be amended to include municipalities, simply by adding to Page 1, Line 15, the words "Both municipalities and...".

Thank you for your consideration of this important issue. If the League may be of further assistance in any way, please call.

National League of Cities
1301 Pennsylvania Avenue NW
Washington, D.C.
20004
(202) 626-3000
Cable: NLCITIES

GROUP SELF-INSURANCE POOLS SPONSORED BY STATE MUNICIPAL LEAGUES

State	Type of Risk Covered				
	Health & Accident	Workers Compensation	Liability	Unemployment Compensation	Property
Alabama		x			
Arkansas	x	x	x		
Connecticut		x	(1)		
Florida	x	x	x		
Georgia		x			
Illinois		x	x		x
Iowa		x			
Kentucky		x		x	
Louisiana (3)		x	x		
Maine	x	x	(1)	x	
Massachusetts		x(2)			
Michigan		x	x	x	x
Minnesota	x	x	x		x
New Hampshire	x			x	
New Mexico		x			
North Carolina	x	x	(1)		
Oklahoma (3)	x	x	x		
South Carolina (3)	x	x			
Tennessee	x	x	x		
Texas		x	x		
Utah	x	(1)			x
Vermont		(1)		x	
Virginia		x			

(1) Pool being developed (as of 8/85)
(2) Fronted safety group program rather than pure pool
(3) Not participating in NLC/RMPSP

Prepared by: National League of Cities
December, 1985

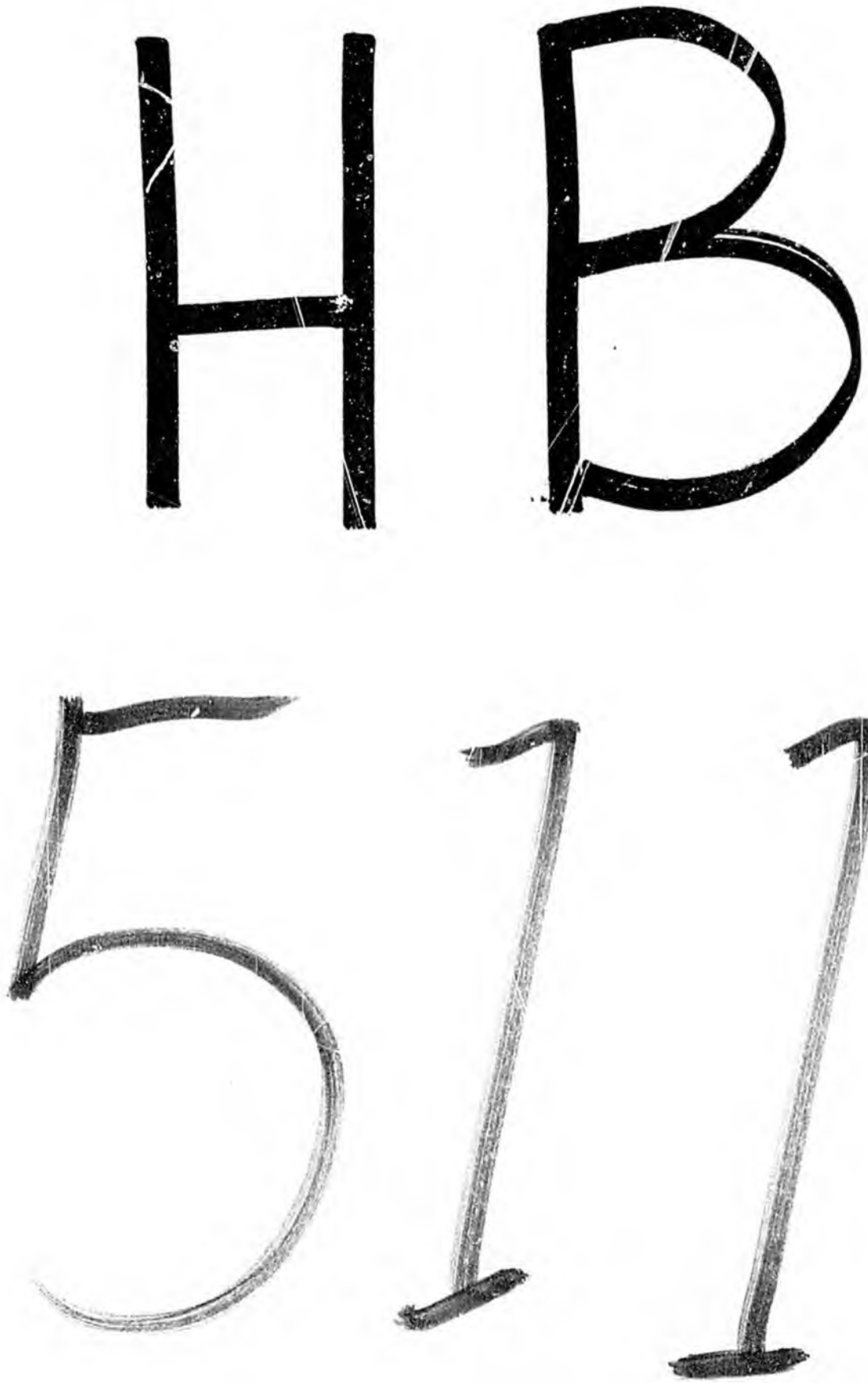
RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

9/5/89
Date

02-519 (REV 8/78)


HB
511

POSITION PAPER

HB 511

Section 1 of this bill amends AS 39.25.150 to grant employment preference rights to persons who are certified professional secretaries in job classifications or positions requiring the skills tested by the Certified Professional Secretary (CPS) examination.

Employment preference rights are currently granted under AS 39.25.150(19) to war-period veterans for initial hire in the classified service by adding points to qualified applicants' scores. Severely handicapped persons receive employment preference rights under AS 39.25.150(21). This provision allows the noncompetitive appointment of the severely handicapped for up to four months to allow the individual to demonstrate the ability to perform in a job.

The granting of employment preference rights under current law is aimed at assisting persons who have been removed from the traditional workforce to transition back into it. Current provisions do not differentiate between professions or training levels or opportunities. The effect of Section 1 would be to provide prefe.ence in state employment to a limited number of the members of a specific profession as recognition for achievement in that profession. (1)

It is our understanding that the skills tested by the CPS examination vary widely, from such topics as general supervision, economics and management, and accounting, to specific elements of the secretarial profession such as transcription. There are currently over 1100 state job classifications, any number of which require some of the skills tested by the CPS examination. The legislation as written could therefore be construed to provide employment preference in many diverse job classifications outside the secretarial profession ranging from accountant to any supervisory position. (2)

Section 2 of HB 511 would provide monetary rewards to current state employees and those entering state employment who have successfully completed the CPS examination. Current employees in positions requiri g the skills tested by the CPS exam would receive a one step increase notwithstanding eligibility for other pay increases. A new employee holding the rating of CPS would automatically be hired above the entry step A in positions requiring skills tested by the CPS exam.

There are no current provisions, statutory, contractual or otherwise, which give automatic monetary incentives for professional achievement among state employees. Yet there are any number of state employees in professions or belonging to professional organizations which impose strict testing or (3)

other requirements on their members. Statutorily imposed monetary recognition of one profession can only lead to requests for similar recognition by other professions. Providing different pay for positions in the same job classification based solely on possession of a professional certificate is also contrary to the principle of equal pay for equal work. If the Personnel Rules promulgated under proposed HB 511 do not apply to employees covered by collective bargaining, there will be further inconsistencies in the method by which employees are paid. (4) (5)

Contemplation of adjusting pay rates in this manner at this point in time is of particular concern in light of the current Classfication Study. One of the principle goals of the Classification Study is to examine the issues of equity and consistency across job classes and pay practices. (6)

Frank Raye, Director
Division of Personnel — 2/5/86 Date

Commissioner Eleanor Andrews
Department of Administration — 2/6/86 Date

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 511

SUBJECT OF PROPOSED BILL:

Section 1 of this bill amends AS 39.25.150 to grant employment preference rights to persons who are certified professional secretaries in job classifications or positions requiring the skills tested by the Certified Professional Secretary (CPS) examination.

(7) Section 1 would require a validation study of the CPS examination in order to identify the job related skills the exam tests for. Once the validation study is completed, an exhaustive review of all State job classifications would be required to identify those classes which require skills that the CPS exam tests for. Since the Division of Personnel does not have personnel with test validation expertise, contractual monies of approximately $60,000 would be necessary to conduct the test validation and identify the affected job classifications.

(8) Assuming that adding points to final scores would be the method used to award employment preference, the Division of Personnel would have to rewrite the two most complex programs in the applicant tracking system. It would also require modifying the two largest record files on line plus additional updates and modifications to other portions of the system. An additional $10,000 in contractual services would be required to implement Section 1.

(9) Section 2 of HB 511 would provide a direct monetary reward in the form of a "bonus" salary increase to those current and prospective State employees who hold a CPS. There are at present approximately 150 such individuals in Alaska. There are 437 current employees in secretarial and administrative assistant positions who could potentially receive their CPS and obtain the bonus salary increase under Section 2 of HB 511.

The following assumptions were made in calculating the increased personal services cost:

(10) Although the proposed HB 511 as written could apply to a wide range of jobs, a narrow interpretation of which positions would be covered would limit the scope to Secretarial and Administrative Assistant job classes. Only individuals in ten job classes (Administrative Assistant I/II/III, Executive Secretary I/II/III, Legal Secretary I/II, and Secretary I/II) would be eligible for the bonus salary increase; there would be an annual 25 percent increase in the number of current and prospective employees who receive their CPS and would be eligible for the bonus salary increase. This assumption is made because Section 2, HB 511, provides a direct monetary incentive for obtaining the CPS. Therefore, the increased cost in successive fiscal years is based on increased numbers of employees qualifying for the bonuses, not on assumed salary increases.

Attachment to Fiscal Note HB 511

JOB CLASS	NO. OF EMPLOYEE		AVERAGE PAY RATE (MONTH)	WEIGHTED TOTAL
Administrative Assistant I	107	X	$2,314	$247,598
Administrative Assistant II	43	X	2,671	114,853
Administrative Assistant III	24	X	2,924	70,176
Executive Secretary I	2	X	2,445	4,890
Executive Secretary II	10	X	2,585	25,850
Executive Secretary III	2	X	2,812	5,624
Legal Secretary I	84	X	2,088	175,392
Legal Secretary II	28	X	2,266	63,448
Secretary I	113	X	2,028	229,164
Secretary II	24	X	2,207	52,968
TOTAL	437			$989,963

(Weighted) Average Monthly Pay Rate: $\frac{989,963}{437}$ = $2,265

"Bonus" Salary Increase	Per Person Monthly	Per Person Annual
Salary: .0325 X $2,265 =	$74	$ 888
Benefits: additional .25%	18	216
	$92	$1,104

(11)

FY 87 Annual Cost for 150		$165,600
FY 88 Annual Cost for 187	(25% increase)	206,448
FY 89 Annual Cost for 234	(25% increase)	258,336
FY 90 Annual Cost for 292	(25% increase)	322,920
FY 91 Annual Cost for 365	(25% increase)	402,960
FY 92 Annual Cost for 437	(increase to maximum number of positions)	503,700

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
Bill/Resolution No.: HB 511
Title: Act Relating to Certified Professional Secretaries

Sponsor: Martin
Requestor: House Labor and Commerce
Date of Request: _____

FISCAL DETAIL
Agency Affected: Administration
BRU: Personnel

Components: Personnel

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	0	165.6	206.5	258.3	322.9	403.0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	70.0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	235.6	206.5	258.3	322.9	403.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	235.6	206.5	258.3	322.9	403.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	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

ANALYSIS: Attach a separate page if necessary Attached

Prepared By: Frank Raye, Director Frank Raye Phone: 465-4430
Division: Personnel Date: 1/29/86

Approved by Commissioner: Eleanor Andrews Eleanor Andrews Date: 2/6/86
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Rev. 11/8/85

20/4K1/0129-02/2

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 511

SUBJECT OF PROPOSED BILL:

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20/4K1/0129-02/3

RESPONSE TO FISCAL NOTE
HB 511

In light of the overstated fiscal note provided by the Division of Personnel, I would like to take a few minutes to clarify the effect of HB 511. I have copied and marked the position paper so that you can easily follow as I refer to various sections of the paper. The Division's main points are underlined.

1. The effect of section 1 [of the bill] would be to provide preference in state employment to a limited number of the members of a specific profession....

   This same preference, in the form of extra points, is not uncommon within the Division of Personnel. Points are awarded for a number of things, ranging from pertinent experience to formal education. What is uncommon is a statutory mandate. A legislative mandate as provided in this bill appears to be the only way to accomplish the CPS point preference, since Division of Personnel is reluctant to otherwise acknowledge the advanced skills, training and commitment of the CPS.

2. The legislation as written could...be construed to provide employment preference in...classifications outside the secretarial profession....

   This objection has been addressed in our proposed Amendment #1, which limits the preference to those in "secretarial and clerical job classes."

3. There are no current provisions...which give automatic monetary incentives for professional achievement among state employees.

and

4. Providing different pay for...the same job classification...is also contrary to the principle of equal pay for equal work.

   If we give equal pay for equal work, why do we pay non-degreed substitute teachers less than substitutes holding a degree? Why are teachers with a masters degree paid more than one with a bachelors degree? Because these higher paid employees are better qualified, so we reward them with money. This is not a new concept. If there is no value to formal education, certification or other evidence of competence, then why do we require these things at all?

5. There is no intention to exclude members of collective bargaining units.

6. This will be referred to later.

7. Section 1 would require a validation study...in order to identify the job related skills the exam tests for.... [Then] an exhaustive review of all State job classifications would be required... ($60,000)

   The CPS test is a nationally recognized certificate. Other states have enacted legislation almost identical to the legislation before you today. In your packets you have copies of laws enacted by the states of Tennessee and Maine.

It is my understanding that, in order to comply with Equal Opportunity laws, the State does in fact have to somehow evaluate this test. Given that other states have successfully implemented the same legislation, it is safe to say that this test is a lawful, nondiscriminatory measure of ability. However, since the validation must take place and is a one-time expense, I will not argue further with this figure.

As for identifying the job classes that would be affected, the legislature will do so with the adoption of Amendment #1.

8. ...The Division of Personnel would have to rewrite the two most complex programs in the applicant tracking system. ($10,000)

If there is some reason why this revision is necessary, why can't the employment preference be included in any revisions resulting from the "current Classification Study" referred to in Argument #6--with no additional fiscal impact?

9, 10 and 11: [The assumption is made that all 437 State secretarial employees would qualify for the pay increase by 1991] ($9,882,000 total)

Here we have a groundless argument. The Division of Personnel assumes that, because a secretary stands to gain approximately $70 a month, every secretary in the State's employ will rush out and pass the CPS test. It is true that, potentially, 437 employees might pass the test. True, but highly unlikely. Of the 5,754 secretaries in Alaska, only 149 are CPSs. That is less than 3% of the secretaries statewide--and Alaska has the highest number of CPSs per capita in the United States! Why should the State of Alaska assume that 100% of its secretarial employees will attempt and pass the CPS exam in order to gain about $800 a year? Does this strike you as reasonable? Likely?

Conclusion:

I must repeat that the CPS examination is rigorous and difficult--a true test of a secretary's skill, knowledge and commitment. We can certainly afford the $15,000 or so per year that it might cost the State to attract and retain competent, dedicated secretaries.

I strongly urge your swift, unanimous passage of HB 511 and HCR 40, with adoption of the proposed amendments and a new fiscal note.

POSITION PAPER

HB 511

Section 1 of this bill amends AS 39.25.150 to grant employment preference rights to persons who are certified professional secretaries in job classifications or positions requiring the skills tested by the Certified Professional Secretary (CPS) examination.

Employment preference rights are currently granted under AS 39.25.150(19) to war-period veterans for initial hire in the classified service by adding points to qualified applicants' scores. Severely handicapped persons receive employment preference rights under AS 39.25.150(21). This provision allows the noncompetitive appointment of the severely handicapped for up to four months to allow the individual to demonstrate the ability to perform in a job.

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Frank Raye 2/5/86

Frank Raye, Director
Division of Personnel

Date

Eleanor Andrews 2/6/86

Commissioner Eleanor Andrews
Department of Administration

Date

REP. TERRY MARTIN

ELECTIVE DISTRICT 13
MOUNTAIN VIEW
RUSSIAN JACK SPRINGS
NIVAKA VALLEY
TUMEDORE AFB
CREEKSIDE
EAST ANCHORAGE

HOME
3060 REKA DRIVE B6
ANCHORAGE, AK 99508
PHONE 333 6990

STRING SESSION
POUCH V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE 465 3783

Alaska House of Representatives

MEMORANDUM

Date: February 7, 1986

To: Representative Mike Navarre, Chairman
House Labor & Commerce Committee

From. Representative Terry Martin TM

Subject: Proposed Amendments to HB 511
relating to Certified Professional Secretaries

Amendment Number 1

This amendment is being offered to clarify that the one-step salary increase and the job preference/advanced step hire portions of this bill would apply only to secretarial and clerical job classes. I am submitting this amendment because the Division of Personnel indicated apprehension that, since the Certified Professional Secretary examination covers so many topics, it might affect too many people. Although this is unlikely, in that very few people who are not secretaries will take the examination, it seemed reasonable to amend the bill so that we are specifying exactly to whom this bill will apply.

Amendment Number 2

In recent correspondence with various Certified Professional Secretaries around the state, it has come to my attention that I neglected to include the other professional secretarial arm in this bill; namely, Professional Legal Secretaries (PLSs).

The PLS test is almost identical to the CPS test, in that it is a rigorous measure of a secretary's skills and abilities. However, it adds to the examination sections relating specifically to skills necessary to a competent legal secretary. The manner and level of testing is comparable to that of the CPS test, and is as esteemed a rating as the CPS. It is my own unfortunate oversight that the PLS was not included in the original bill.

I have attached materials relating to the PLS examination. For your information, there are currently only 21 Professional Legal Secretaries in the state of Alaska. Alaska, by the way, ranks first per capita in the United States in numbers of both Certified Professional Secretaries and Professional Legal Secretaries--quite a distinction.

Utermohle

A M E N D M E N T #1

Offered in the HOUSE BY MARTIN

TO: HB 511

Page 5, lines 15 - 17, delete all material after "in" and insert:

" secretarial and clerical job classes; and"

2/6/86

Utermohle

A M E N D M E N T

#2

Offered in the HOUSE

BY MARTIN

TO: HB 511

Page 5, line 15, after "secretary" insert

"or professional legal secretary"

Page 5, line 17, after "exam" insert

"or the professional legal secretary exam"

Page 5, line 21, after "SECRETARIES" insert

"AND PROFESSIONAL LEGAL SECRETARIES"

Page 5, line 23, after "secretary" insert

"or professional legal secretary"

Page 5, line 27, after "secretary" insert

"or professional legal secretary"

Page 5, line 29, after "exam" insert

"or the professional legal secretary exam"