

ALASKA LEGISLATURE COMMITTEE FILES 1900 - 1900 00/2

4123 SJUD SB 443 - SB 470

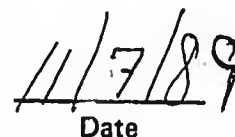
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STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL

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9-17 365 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 5, 1986

SUBJECT: Conflict with single subject rule
(CSSB 443(Jud))

TO: Senator Pat Rodey
Chair, Judiciary Committee

FROM: Theresa L. Bannitt *TB*
Legislative Counsel

This memo accompanies version 2 of CSSB 443(Jud) that you have requested.

This version of SB 443 raises an issue concerning the single subject rule. Article II, sec. 13 of the Alaska Constitution prohibits the inclusion in one bill of more than one subject. The subject of CSSB 443(Jud) appears to relate to insurance. However, section 2 requires attorneys to report all of their closed personal injury cases that have been litigated, whether or not the cases or underlying claims involved insurance. Section 5 as it now stands, appears to add unrelated matter to the bill.

The purpose of the single subject rule is to "...prevent the inclusion of incongruous and unrelated matter in the same bill in order to get support for it which the separate subjects might not separately command, and to guard against inadvertence, stealth, and fraud in legislation." Suber v. Alaska State Bond Committee, 414 P.2d 546 (Alaska 1966). The Alaska Supreme Court has construed this constitutional requirement and provided certain standards. All that is necessary is that the act should embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be part of, or germane to, one general subject. State v. First National Bank of Anchorage, 660 P.2d 406 (Alaska 1982); Yute Air Alaska, Inc. v. McAlpine, 698 P.2d 1173 (Alaska 1985). What constitutes

Senator Rodey
Page 2
May 5, 1986

one subject is broadly construed, and an act will not be set aside for failing to comply with the single subject rule "except where the violation is both substantial and plain." North Slope Borough v. Sohio Petroleum Corp., 585 P.2d 534, 545 (Alaska 1978).

Applying the above standard to the inclusion in SB 443 of a requirement that attorneys report all closed personal injury cases, it is my opinion that insurance and personal injury cases are two distinct subject areas, and when combined as in this bill do not meet the standard articulated by the Alaska Supreme Court, that each bill fall under one general idea, or general subject. Therefore, the combination of these subjects in this bill would violate art. II, sec. 13 of the Alaska Constitution requiring that each bill be limited to one subject.

If I can be of further assistance, please advise.

TLB:mkr
m5/069

Enclosure

Senate Bill No. 443

Section 1. AS 21.34.170 is amended to read:

Sec. 21.34170. [MONTHLY] REPORTS, SUMMARY OF EXPORTED BUSINESS. On or before the end of each month, each surplus lines broker shall file with the director, on forms prescribed by the director, a verified report in duplicate of all surplus lines insurance transacted during the preceding calendar month showing the following information itemized by kind of insurance:

(1) the aggregate gross premiums written; [AND]

(2) the aggregate return premiums.

On or before the end of each quarter, each surplus lines broker, adjuster and company shall file with the director, on forms prescribed by the director, a verified report of the aggregate claims incurred during the quarter, showing the amount of losses experienced in the state, including amounts paid for the settlement of claims and satisfaction of judgments in the state; amounts held for losses incurred in the state but not reported and amounts of unpaid claims [BY KIND OF INSURANCE].

Sec. 2. AS 21.34.170 is amended by adding a new subsection to read:

(b) The director shall make the statements required by (a) of this section available to the public for inspection.

MEMORANDUM

State of Alaska ^{SB} 443

TO: John L. George, Director

DATE: March 17, 1986

FILE NO.:

THRU:

TELEPHONE NO.:

SUBJECT: 1985 Underwriting Results
Other Liability

FROM: Donald DeMuth
Chief Financial Examiner

You have asked me to review the underwriting results of approximately the 10 leading writers of the line "Other Liability" "(17)" in the State of Alaska. The results of my study follow.

You will note that I have actually supplied statistics on 13 companies. The reason for the three additional companies are: You stated that you did not want companies like "State Farm" - companies that are not traditionally considered to be writers of Other Liability included. For this reason, I did not know if you wanted ARECA Insurance Exchange included or not. I added one company and you may exclude "ARECA" if you wish. I also question the accuracy of the Continental Insurance Company's Alaska direct losses incurred figure, and both noted a probable aberration in schedule "P" figures and am aware that CIGNA made some big reserve adjustments which may well be without basis at year-end, and which may have skewed Alaska Pacific Assurance Company's figures. You may, hence, eliminate the figures for these two companies if you wish and still be left with the statistics on 10 companies. I also eliminated the figures for the Insurance Company of North America as their page 14 figures for this line are probably erroneous and meaningless.

The first area of experience that I looked at was the company's direct underwriting results in Alaska. The results are summarized as follows:

Rank by Premium Written In Alaska		Alaska Direct Premium Written	Alaska Direct Premium Earned	Alaska Direct Losses Paid	Alaska Direct Losses Incurred	Alaska Loss Ratio
12	Federal Insurance Company	\$ 759,348	\$ 556,132	\$ 4,380	\$ 32,347	5.8%
13	The Continental Ins. Co.	552,533	558,859	299,050	(387,290)	*
10	Pacific Marine Insurance Co. of Alaska	792,416	308,528	150,530	245,804	30.4%
2	Alaska National Ins. Co.	3,938,343	2,703,705	1,581,866	2,173,774	80.4%
1	AK Pacific Assurance Co.	4,148,556	4,329,380	1,845,266	2,960,272	68.4%
7	Freemont Indemnity Co.	1,581,809	1,600,374	283,530	856,617	53.5%
9	ARECA Insurance Exchange	975,398	975,398	50,849	175,312	18.0%
6	Providence Washington Insurance Co. of Alaska	1,827,910	2,424,073	4,275,334	2,817,529	116.2%

5	Industrial Indemnity Company of Alaska	1,838,269	1,842,175	1,236,617	1,423,207	77.3%
4	Alaska Insurance Company	1,870,196	1,539,729	576,349	896,926	58.3%
3	Nat'l Union Fire Ins. Co.	3,732,736	2,636,895	170,668	577,159	21.9%
11	Employers Insurance of Wausau, A Mutual Company	759,889	675,147	124,435	992,116	147.0%
8	General Accident Ins. Company of America	<u>1,004,405</u>	<u>996,593</u>	<u>22,857</u>	<u>733,765</u>	<u>75.7%</u>
		\$23,781,808	\$21,649,998	\$10,621,731	\$13,497,538	62.3%

* Meaningless

The column above entitled "Alaska Direct Losses Paid" is not of much significance. I included it only to illustrate the great disparity between losses paid and losses incurred in certain cases. There are a number of possible reasons for this disparity, but I cannot identify which reason is responsible for the cases reflected in the above exhibit.

For comparative purposes, I attempted to develop the same information for the same companies on a national basis. The companies are not required to provide this information on a national basis, but a few companies volunteer and, hence, complete page 14 of the annual statement on a national basis. The results of this comparative study does not reveal very much information, but the results are as follows:

Rank by Premium Written In Alaska		National Direct Premium Written	National Direct Premium Earned	National Direct Losses Paid	National Direct Losses Incurred	National Loss Ratio
12	Federal Insurance Company	Information not available.				
13	The Continental Ins. Co.	Information not available.				
10	Pacific Marine Insurance Co. of Alaska	Information not available.				
2	Alaska National Ins. Co.	Information not available.				
1	AK Pacific Assurance Co.	Information not available.				
7	Freemont Indemnity Co.	\$31,645,042	\$34,211,163	\$25,679,707	\$53,934,431	157.0%
9	ARECA Insurance Exchange	National experience same as Alaskan experience.				
6	Providence Washington Insurance Co. of Alaska	Information not available.				
5	Industrial Indemnity Company of Alaska	Information not available.				
4	Alaska Insurance Company	National experience same as Alaskan experience.				
3	Nat'l Union Fire Ins. Co.	Information not available.				
11	Employers Insurance of Wausau, A Mutual Company	Information not available.				
8	General Accident Ins. Company of America	Information not available.				

In an attempt to get some kind of comparative information - Alaska vs. National - I then decided to take a look at the same companies' net national business. This is not a direct comparison due to the fact that net business is net of assumed and ceded reinsurance, but the annual statement does not reflect direct national premium earned, only written, so I had no choice.

The result of this study is as follows:

Rank By Premium Written In Alaska		National Net Premium Written	National Net Premium Earned	National Net Losses Paid	National Net Losses Incurred	National Net Loss Ratio
12	Federal Insurance Company	\$223,854,784	\$166,392,450	\$ 42,483,524	\$ 85,539,884	51.4%
13	The Continental Ins. Co.	38,763,790	32,026,227	19,576,743	30,650,173	95.7%
10	Pacific Marine Insurance Co. of Alaska	Not Applicable				
2	Alaska National Ins. Co.	2,077,778	1,547,010	222,217	1,051,834	68.0%
1	AK Pacific Assurance Co.	3,884,456	3,271,879	3,995,018	5,151,751	157.5%
7	Freemont Indemnity Co.	33,824,745	26,542,239	11,277,702	36,844,816	138.8%
9	ARECA Insurance Exchange	823,895	823,895	50,849	175,312	21.3%
6	Providence Washington Insurance Co. of Alaska	Not Applicable				
5	Industrial Indemnity Company of Alaska	Not Applicable				
4	Alaska Insurance Company	Not Applicable				
3	Nat'l Union Fire Ins. Co.	357,841,310	283,621,245	80,724,018	222,277,500	78.4%
11	Employers Insurance of Wausau, A Mutual Company	112,716,611	104,759,066	73,570,268	73,177,983	69.9%
8	General Accident Ins. Company of America	31,868,701	29,249,804	10,955,921	20,886,903	71.4%
		\$805,656,070	\$648,233,815	\$242,856,260	\$475,756,156	73.4%

I also felt that it might be interesting to make a similar review on an accident year basis rather than on a calendar year basis. The reason for this comparative review is that reserve changes made during 1985 applicable to prior year business is reflected in the calendar year 1985 experience, but not in the 1985 accident year experience. The accident year business only reflects the company's experience on accidents that actually happened during 1985. The result of this review is as follows:

Rank By Premium Written In Alaska		Nat'l Net 1985 Accident Year Premium Earned	Nat'l Net 1985 Accident Year Loss Payments	Nat'l Net 1985 Accident Year Losses Incurred	Nat'l Net 1985 Accident Year Loss Ratio
12	Federal Insurance Company	\$166,392,450	\$ 8,109,100	\$ 77,210,574	46.4%
13	The Continental Ins. Co.	32,026,247	1,618,902	24,550,326	76.7%

10	Pacific Marine Insurance Co. of Alaska	Not Applicable				
2	Alaska National Ins. Co.	1,547,010	34,420	1,012,476	65.5%	
1	AK Pacific Assurance Co.	3,271,879	414,259	2,790,689	85.3%	
7	Freemont Indemnity Co.	26,542,239	1,605,638	26,435,512	100.0%	
9	ARECA Insurance Exchange	823,895	30,435	362,961	44.1%	
6	Providence Washington Insurance Co. of Alaska	Not Applicable				
5	Industrial Indemnity Company of Alaska	Not Applicable				
4	Alaska Insurance Company	Not Applicable				
3	Nat'l Union Fire Ins. Co.	283,621,245	7,168,480	211,149,406	74.5%	
11	Employers Insurance of Wausau, A Mutual Company	104,759,072	6,085,504	50,311,511	48.0%	
8	General Accident Ins. Company of America	<u>29,249,801</u>	<u>1,126,201</u>	<u>16,247,129</u>	<u>55.6%</u>	
		\$648,233,838	\$ 26,192,939	\$410,070,584	63.3%	

Overall, in spite of all the tears that the insurance industry is shedding, it appears to me that the insurance industry is doing quite well for this line. Unfortunately, accident year direct statistics are not available for Alaska, but I would guesstimate that if they were, they would reflect a loss ratio down around 50%. I also note that the paid loss ratio for accident year 1985, on a national basis, is down around 4%. Fat city on investment income coming up in 1986, particularly in those states that do not allow pre- and postjudgment interest.

I would suggest that you have your market conduct "rate section" follow-up on this memo - perhaps doing some research work in some of the companies offices. I hope to take a look at Providence Washington Insurance Company of Alaska and Industrial Indemnity Insurance Company of Alaska shortly, as both are overdue for an examination.

I would also suggest that you have your rate people perhaps take a look at 1984 experience for comparative purposes. It might also be interesting to do a policy year review of the same companies for 1984. This information should now be available but it is not reported in the annual statement. It would entail a special statistical call.

All figures reflected in this memo were taken from filed annual statements, but I have no idea how accurate the information is.

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STATEMENT OF PURPOSERS 12049C1

This bill will amend Section 41-335, Idaho Code, to require disclosure to the Department of Insurance of certain financial information maintained by insurance companies. The bill confers additional rule-making authority upon the Department of Insurance to require such statistical information and reports as the Department deems necessary to more adequately monitor insurance coverage, claims, and rates in the State of Idaho.

The Statistical information currently being reported by the Insurance Industry to the Department of Insurance is incomplete and does not enable the Department of Insurance to evaluate questions of coverage, rates, claims, or losses within the industry.

FISCAL IMPACT

No Fiscal Impact on the general fund. This bill requires the Director of Insurance to include within the regulation currently existing under Section 41-401, the costs of administering this provision.

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 460

BY BUSINESS COMMITTEE

AN ACT

RELATING TO STATISTICAL REPORTING OF INSURANCE CARRIERS; AMENDING SECTION 41-336A, IDAHO CODE, TO REQUIRE INSURANCE CARRIERS TO REPORT THEIR IDAHO EXPERIENCE AND OVERALL EXPERIENCE SEPARATELY, TO AUTHORIZE THE DIRECTOR TO PROVIDE FOR FORMS AND INFORMATION BY RULES AND REGULATIONS, AND TO ALLOW THE DIRECTOR TO COMPILE STATISTICS AND PREPARE REPORTS; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-336B, IDAHO CODE, TO REQUIRE AN INSURER TO SUBMIT A DISPOSITION OF CLAIMS REPORT FOR CERTAIN TYPES OF CLAIMS, TO REQUIRE THE REPORTS BE MADE PUBLIC, AND TO PROVIDE IMMUNITY FROM SUIT FOR INSURERS AND THE DEPARTMENT FOR ACTIONS TAKEN PURSUANT TO THE SECTION; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-336C, IDAHO CODE, TO PROVIDE PENALTIES FOR FAILURE TO REPORT; AND AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-336D, IDAHO CODE, TO PROVIDE FOR FEES AND MISCELLANEOUS CHARGES FOR THE ADMINISTRATION OF THE PROVISIONS OF SECTIONS 41-336A, 41-336B AND 42-336C, IDAHO CODE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-336A, Idaho Code, be, and the same is hereby amended to read as follows:

41-336A. STATISTICAL REPORTS. (1) As a condition of doing business in the state of Idaho each insurer transacting insurance covering:

(a) Liability for malpractice of any person licensed under chapter 18, title 54, Idaho Code;

(b) Liability for malpractice of any person licensed under chapter 1, title 3, Idaho Code;

(c) Liability for the manufacture, design, production, processing or modification of any product; or

(d) Any other risk or risks, whether liability or otherwise, that the director of the department of insurance may specify;

shall report to the director such statistics as the director may designate by rule or regulation. The statistics shall be reported to the director annually, by the first day of March, for the preceeding year ending December 31. The statistics shall separately address the experience of the state of Idaho and all other experience including the state of Idaho.

(2) The reports required by subsection (1) above shall include, but shall not be limited to, the following for each insurer for each type of insurance for which a report is required:

(a) Number of exposures;

(b) Direct premiums written;

(c) Direct premiums earned;

(d) Direct losses paid

(i) amount,

(ii) number of claims;

(e) Direct losses incurred;

- 1 (f) Direct losses unpaid
 2 (i) amount reported,
 3 (ii) number of claims; and
 4 (g) Net losses incurred but not reported.

5 (3) Reports required by subsection (1) of this section shall be made on
 6 forms required by the director and shall contain the information required by
 7 rule and regulation of the director.

8 (4) The director may annually compile and review all reports submitted
 9 under the provisions of this section. When reports are submitted representing
 10 no less than seventy-five percent (75%) of the premiums written for each re-
 11 porting line of insurance for the reporting year, the director shall evaluate
 12 the premium rates in Idaho for each reporting line of insurance. The findings
 13 of such review and evaluation, and the reports required of insurers under this
 14 section, shall be made available to any interested citizen, insured or li-
 15 censed insurer.

16 SECTION 2. That Chapter 3, Title 41, Idaho Code, be, and the same is
 17 hereby amended by the addition thereto of a NEW SECTION, to be known and
 18 designated as Section 41-336B, Idaho Code, and to read as follows:

19 41-336B. DISPOSITION OF CLAIMS REPORT. (1) As a condition of doing busi-
 20 ness in the state of Idaho, each insurer transacting insurance subject to the
 21 provisions of section 41-336A, Idaho Code, shall report to the director annu-
 22 ally by the first day of March, for each of the two (2) years next preceding
 23 the initial report and for one (1) year next preceding filing the report
 24 thereafter for each and every claim as defined in section 41-336A, Idaho Code,
 25 caused by the insured, for policies issued in the state of Idaho, if the claim
 26 resulted in:

- 27 (a) A final judgment in any amount;
 28 (b) A settlement in any amount;
 29 (c) A final disposition not resulting in payment on behalf of the
 30 insured.

31 (2) Reports required in subsection (1) of this section shall be made on
 32 forms required by the director and shall contain the information required by
 33 rule and regulation of the director.

34 (3) The director shall make reports required hereunder available to the
 35 public in a manner which will not reveal the names of any person, manufacturer
 36 or seller involved.

37 (4) There shall be no liability on the part of, and no cause of action
 38 shall arise against, any insurer reporting hereunder or its agents or
 39 employees, or the director or employees of the state, for any action taken by
 40 them in good faith compliance with the provisions of this section.

41 SECTION 3. That Chapter 3, Title 41, Idaho Code, be, and the same is
 42 hereby amended by the addition thereto of a NEW SECTION, to be known and
 43 designated as Section 41-336C, Idaho Code, and to read as follows:

44 41-336C. FAILURE TO COMPLY -- PENALTIES. (1) Any insurance company
 45 required to file a report with the director under sections 41-336A or 41-336B,
 46 Idaho Code, which neglects to file such report in the form prescribed and
 47 within the time specified, or who neglects to fully and satisfactorily respond
 48 in any report timely filed, shall be subject to a penalty of one hundred
 49 dollars (\$100) for each day in default.

50 (2) This penalty shall be in addition to any administrative penalty under

1 section 41-327, Idaho Code.

2 SECTION 4. That Chapter 3, Title 41, Idaho Code, be, and the same is
3 hereby amended by the addition thereto of a NEW SECTION, to be known and
4 designated as Section 41-336D, Idaho Code, and to read as follows:

5 41-336D. FEES AND MISCELLANEOUS CHARGES. The director shall include
6 within the regulation required in section 41-401, Idaho Code, the fees and
7 miscellaneous charges required for the administration of the provisions of
8 section 41-336A, 41-336B and 41-336C, Idaho Code.

Report blasts insurance rates

by Patricia O'Brien
Knight-Ridder Newspapers

WASHINGTON — The insurance industry hiked its 1984 rates for medical malpractice and general liability coverage by more than was needed to remain profitable, according to a government report released Monday — a charge rejected by an industry spokeswoman as “totally naive” and unfair.

Insurance companies have come under fire in recent months for sharp increases in liability rates that have resulted in medical care providers, municipalities and such “high risk” businesses as asbestos removal companies being forced to pay huge premium increases or — sometimes — being unable to obtain coverage at all.

According to testimony by officials of the General Accounting Office, the investigative arm of Congress, the impact of the hikes has been severe. Among the examples cited at a congressional hearing Monday:

- A recent survey of day care providers found that 40 percent of those surveyed had their insurance coverage canceled while most of the remainder were forced to pay premium increases of between 200 and 300 percent.

- The American Medical Association reported that malpractice rates for obstetricians in Maryland increased by 130 percent last summer — a trend that some say is causing doctors nationwide to consider closing their doors rather than pay the es-

calating premiums.

“The insurance industry is generally a very profitable business,” said GAO official Natwar Gandhi. “To break even after some rough times, all these companies had to do was raise medical malpractice rates by 20 percent. They went much farther than that.”

Mavis Walters, an actuary with the Insurance Services Office, protested that the GAO report ignores the financial realities of sharply increased costs due to a trend toward large lawsuit settlements.

“Our losses have been too high, and our prices too low,” she said. “We have to make it up. The GAO is just looking backward, and that is totally naive.”

Walters said her organization, which provides ratemaking data to the industry, recommended that malpractice rates increase by 47 percent in 1984. “That was our break-even recommendation,” she said.

According to the GAO, even though the insurance industry lost money in 1984, it still made between \$50 and \$75 billion in net profits over the last 10 years. In addition, the industry itself is predicting a profitable five-year period ahead.

The industry blames several years of “cutthroat” rate competition, an “explosion” of lawsuits — and the sharp drop in interest rates, which eroded companies’ investment income — for its heavy recent losses. As a result, companies contend,

See Insurance, page E-7

Bannister
4/24/86

Original sponsor: Halford

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 443 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to insurance reporting and dis-
7 closure requirements, reporting fees, and reporting
8 penalties; evaluation of insurance premium rates;
9 surplus lines insurance; and the Medical Indemnity
10 Corporation of Alaska."

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

12 * Section 1. AS 21.09.200 is repealed and reenacted to read:

13 Sec. 21.09.200. ANNUAL STATEMENT. (a) Each authorized insurer
14 shall before March 2 of each year file with the director a full and
15 true statement of its financial condition, transactions, and affairs
16 as of the preceding December 31. The statement shall be in the gener-
17 al form and context acceptable to the director, and shall be cate-
18 gorized by the specific type of insurance risk and by the business,
19 profession, service, activity or enterprise of the insured. The
20 statement shall be verified by the oath of the insurer's president or
21 vice-president, and secretary, or, if a reciprocal insurer, by oath of
22 the attorney-in-fact or the same officers if a corporation, unless
23 verification is waived by the director of insurance. The statement
24 shall itemize all required information according to the

25 (1) total experience of the insurer; and

26 (2) experience of the insurer in the state.

27 (b) The statement required by (a) of this section must include
28 the following information for each type of insurance risk reported in
29 the statement:

- 1 (1) number of exposures;
- 2 (2) direct premiums written;
- 3 (3) direct premiums earned;
- 4 (4) the amount and number of claims of direct losses paid;
- 5 (5) direct losses incurred;
- 6 (6) the amount reported and number of claims for direct
- 7 losses unpaid;
- 8 (7) net losses incurred but not reported.

9 (c) The director shall annually review and compile all state-
10 ments submitted under (a) of this section. When the submitted state-
11 ments amount to 75 percent or more of the premiums written for a line
12 of insurance reported for the reporting year, the director shall
13 evaluate the premium rates in the state for the line of insurance.

14 (d) The statement of an alien insurer shall relate only to its
15 transactions and affairs in the United States unless the director
16 requires otherwise. If the director requires a statement concerning
17 an alien insurer's affairs throughout the world, the insurer shall
18 file the statement with the director as soon as is reasonably possi-
19 ble. The statement shall be verified by the insurer's United States
20 manager or other authorized officer.

21 (e) The director shall make available to the public for in-
22 spection the statements and evaluations required by this section.

23 * Sec. 2. AS 21.09 is amended by adding new sections to read:

24 Sec. 21.09.203. CLAIMS REPORTS. (a) As a condition of doing
25 business in the state, an insurer shall before March 2 of each year
26 file with the director a report for each claim made on a policy issued
27 by the insurer in the state if the claim resulted in a

28 (1) final judgment;

29 (2) settlement;

1 (3) final disposition, other than a judgment or settlement,
2 that did not result in a payment by the insurer on behalf of the
3 insured.

4 (b) A report required by (a) of this section shall be made on
5 the forms provided by the director and contain the information re-
6 quired by the director by regulation.

7 (c) The director shall make the reports required by (b) of this
8 section available to the public in a manner that does not reveal the
9 names of the persons in the reports.

10 (d) An insurer, the agents and employees of the insurer, the
11 director, and the employees of the division are not liable for action
12 taken in good faith to implement or comply with this section.

13 Sec. 21.09.205. FEES. At the time of filing a statement under
14 AS 21.09.200 or a report under AS 21.09.203, the insurer shall pay a
15 fee established by the director under AS 21.06.250.

16 Sec. 21.09.207. PENALTIES. (a) An insurer shall pay the direc-
17 tor \$100 for each day the insurer fails to file a statement as re-
18 quired by AS 21.09.200 or a report as required by AS 21.09.203.

19 (b) If an insurer fails to file by March 1 of each year the
20 statement required by AS 21.09.200 or the report required by AS 21.-
21 09.205, the director may

22 (1) suspend the authority of the insurer to enter into new
23 obligations or issue new or renewal policies of insurance in the
24 state;

25 (2) refuse to accept a fee for continuance of the insurer's
26 certificate of authority under AS 21.09.130;

27 (3) suspend or revoke the insurer's certificate of authori-
28 ty.

29 * Sec. 3. AS 21.34.170 is amended to read:

1 Sec. 21.34.170. [MONTHLY] REPORTS [, SUMMARY OF EXPORTED BUSI-
2 NESS]. On or before the end of each month, each surplus lines broker
3 shall file with the director, on forms prescribed by the director, a
4 verified report in duplicate of all surplus lines insurance transacted
5 during the preceding calendar month showing the following information
6 itemized by kind of insurance:

7 (1) the aggregate gross premiums written; and

8 (2) the aggregate return premiums [BY KIND OF INSURANCE].

9 * Sec. 4. AS 21.34.170 is amended by adding new subsections to read:

10 (b) On or before the end of each calendar quarter, each surplus
11 lines broker, each adjuster that engages in surplus lines insurance,
12 and each business that engages in surplus lines insurance, shall file
13 with the director, on forms prescribed by the director, a verified
14 report of the aggregate claims that were incurred during the quarter
15 and that are known by the broker, adjuster, or business. The report
16 shall include the following information to the extent of the knowledge
17 of the broker, adjuster, or business:

18 (1) the amount of losses experienced in the state, includ-
19 ing amounts paid for the settlement of claims and satisfaction of
20 judgments in the state;

21 (2) amounts held for losses incurred in the state but not
22 reported; and

23 (3) amounts of unpaid claims.

24 (c) The director shall make the reports required by this section
25 available to the public for inspection.

26 * Sec. 5. AS 21.75.130 is amended to read:

27 Sec. 21.75.130. ANNUAL STATEMENT AND CLAIMS REPORT. (a) The
28 annual statement and claims report of a reciprocal insurer shall be
29 made by its attorney and filed with the director, as provided in

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AS 21.09.200 - 21.09.205 [AS 21.09.200].

(b) The statement and claims report shall be supplemented by information that [WHICH] may be required by the director relative to the affairs and transactions of the attorney insofar as they relate to the reciprocal insurer.

* Sec. 6. AS 21.88.050(a) is amended to read:

(a) The corporation shall

(1) in the form approved by the director, issue to all physicians and hospitals who are found to be acceptable risks under standards developed under (5) of this subsection, and who pay the premiums for it, a contract or contracts indemnifying physicians and hospitals and their employees who are health care providers against loss by reason of liability for covered claims for an act or omission in the delivery of professional health care in the [THIS] state, and agreeing to tender on behalf of the physicians and hospitals and their employees who are health care providers a defense to a covered claim in a proceeding brought under AS 09.55.530 - 09.55.560; the limits of liability for policies issued by the corporation shall be approved by the director; the contract shall cover the defense against but need not indemnify liability for punitive damages arising from a covered claim; at the option of the corporation, if approved by the director, and for an additional premium the contract may cover claims against the physician or hospital that arise out of professional services performed by the physician or hospital for any period before the contract is issued, except that coverage will not be provided for a claim already filed or of which the physician or hospital had or reasonably should have had notice at the time the retroactive insurance was purchased;

(2) charge a premium for the protection provided by the

1 contracts issued by the corporation that [WHICH] shall be determined
2 by the board of governors in accordance with AS 21.88.080 and subject
3 to the approval of the director;

4 (3) comply with or be subject to AS 21.06.090, 21.06.120,
5 21.06.140, 21.06.160, 21.06.250, AS 21.09.180 - 21.09.207 [AS 21.-
6 09.180 - 21.09.200], 21.09.250, 21.09.280, AS 21.12.020(b)-(e),
7 AS 21.18, AS 21.21, AS 21.24 and AS 21.36; and shall be exempt from
8 participation as a member insurer in the Alaska Insurance Guaranty
9 Corporation;

10 (4) carry out the obligations of the contracts issued by
11 the corporation by defending all covered claims made against insured
12 health care providers and by paying all liabilities that [WHICH] are
13 finally adjudicated against the insured health care provider or that
14 [WHICH] may in the opinion of the corporation reasonably be expected
15 to be finally adjudicated against the health care provider to the
16 extent of the contract obligation;

17 (5) establish standards for the acceptability of risks; in
18 establishing these standards the corporation may exclude an applicant
19 for insurance based on individual risk selection factors, but may not
20 exclude an applicant based only on the classification of the appli-
21 cant.
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Version #2
Bannister
5/5/86

Original sponsor: Halford

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 443 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring attorneys to make certain litiga-
7 tion reports; requiring reports on certain insurance
8 claims; establishing a system for the collection of
9 certain insurance data; relating to surplus lines
10 insurance; and providing for an effective date."

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

12 * Section 1. FINDINGS. (a) The legislature has extensively investigat-
13 ed

14 (1) the revision of the laws relating to civil liability for
15 bodily injury resulting from tortious acts of insured persons; and

16 (2) the effect of a revision on the provision of insurance at a
17 reasonable cost for risks in the state.

18 (b) During the investigation into this area, the legislature has
19 determined that little actual claim data is available from which to deter-
20 mine

21 (1) how dollars paid for bodily injury losses by insurers are
22 allocated among kinds of damage and levels of loss claims made by individu-
23 als; and

24 (2) what correlations can be made between the size of claims and
25 the approach to adjusting the claims.

26 (c) The legislature has determined that it would be valuable to
27 accumulate in as inexpensive a manner as possible sufficient data on losses
28 experienced by insurers as a result of claims for bodily injury so that a
29 credible base of information can be established from which conclusions

1 about loss adjudication and damage allocation could be made.

2 (d) The legislature has determined that a program to accumulate data
3 under (c) of this section should terminate when sufficient data has been
4 accumulated to establish an adequate data base.

5 * Sec. 2. AS 08.08 is amended by adding a new section to article 5 to
6 read:

7 Sec. 08.08.241. REPORT REQUIRED. (a) Unless the client's
8 insurer, insurance adjuster, or general insurance agent or manager has
9 filed the report required under AS 21.06.320, a person engaged in the
10 practice of law in the state who has represented a client in an action
11 in a court of the state or a federal court in the state shall, within
12 30 days after conclusion of a court action by decision of the trial
13 court if not appealed or decision of the highest court to which the
14 decision was appealed, submit a report under AS 21.06.320 if the
15 action involved a demand on a person for compensation for bodily
16 injuries.

17 * Sec. 3. AS 21.06 is amended by adding new sections to read:

18 ARTICLE 2. INSURANCE COSTS FOR BODILY INJURY COMPENSATION LOSSES.

19 Sec. 21.06.300. STUDY REPORTER POSITION. (a) There is created
20 in the division the position of study reporter appointed by the direc-
21 tor.

22 (b) The study reporter must have the qualifications adequate to
23 perform the duties of the study reporter, including

24 (1) an undergraduate degree in economics, statistics,
25 mathematics, or similar field from an accredited college or univer-
26 sity;

27 (2) experience in the collection, analysis, and presenta-
28 tion of large amounts of data for use in formulating public or busi-
29 ness policy.

1 Sec. 21.06.310. DUTIES OF STUDY REPORTER. (a) The study repor-
2 ter shall

3 (1) gather information on closed claims;

4 (2) prepare a documented report that statistically deter-
5 mines the allocation of insurance costs in the state for the compensa-
6 tion of bodily injury

7 (A) among the types of damages for compensation paid;

8 (B) between compensation for damage and costs of
9 adjustment;

10 (C) among the various categories of

11 (i) adjustment expense;

12 (ii) persons making claims; and

13 (iii) persons claimed against;

14 (D) between insured and uninsured losses;

15 (E) among alternate methods of dispute resolution;

16 (F) among categories of claims by size of claim and by
17 the court in which the claim was filed;

18 (G) among other categories determined by the director
19 to be relevant to the purposes of the study;

20 (3) report the information gathered under this section for
21 each calendar year in statistical form to the director and the legis-
22 lature on or before March 30 of the year following the calendar year
23 being reported.

24 (b) The study reporter may not inquire into qualitative or
25 quantitative comparisons among persons of the same occupation, includ-
26 ing attorneys, insurers, and adjusters.

27 Sec. 21.06.320. REPORTING REQUIRED. Within 30 days of closing a
28 claim, a person licensed as an insurer, adjuster, or general agent or
29 manager under this title shall report the closed claim to the study

1 reporter on the form established by the director, if

2 (1) the person either insures the insured against whom the
3 claim was filed or has assumed the obligation of investigating and
4 adjusting the claim to its conclusion; and

5 (2) the attorney for the person has not filed the report.

6 Sec. 21.06.330. REPORT FORM. (a) The director shall establish
7 by regulation the form for the report required under AS 21.06.320.

8 (b) The form

9 (1) may not require information that is unavailable from
10 the files of the person making the report;

11 (2) may not contain the name or identifying data of the
12 persons involved in the claim, including attorneys and insurers;

13 (3) may not require information that is confidential under
14 Alaska Code of Professional Responsibility Canon 4 from an attorney
15 who is required to report under AS 08.08.241;

16 (4) must consist primarily of blanks, check boxes, and
17 similar means of reporting data;

18 (5) may not require narrative answers beyond one line in
19 length;

20 (6) may only request information relevant to the informa-
21 tion to be gathered by the study reporter under AS 21.06.310.

22 Sec. 21.06.340. VOLUNTARY INFORMATION. A person who investi-
23 gates and adjusts insurance claims but who is not required to report
24 under AS 21.06.320 may contribute reports of closed claims to the
25 study reporter. The study reporter shall take the precautions neces-
26 sary to ensure that the information submitted under this section is
27 accurate.

28 Sec. 21.06.350. PUBLIC INFORMATION AND INSPECTION. (a) Infor-
29 mation provided under AS 21.06.320 and 21.06.340 and all statistical

1 abstracts and summaries prepared from the information are public
2 information, except that data obtained by the director or the study
3 reporter that would identify a person is confidential information and
4 not available for public inspection.

5 (b) The director and study reporter shall take the precautions
6 necessary to ensure that confidential information is not disclosed to
7 the public.

8 Sec. 21.06.360. REVIEW AUTHORITY. (a) The director may inspect
9 the files of a person who files a report under AS 21.06.320 or 21.06.-
10 340 in order to verify that the report complies with AS 21.06.300 -
11 21.06.370 and to determine whether the report form provides all avail-
12 able information relevant to the purposes of AS 21.06.300 - 21.06.370.

13 (b) Information obtained from inspection under (a) of this sec-
14 tion, except the statistical data that becomes part of the reportable
15 data base, is confidential and not available for public inspection.

16 Sec. 21.06.370. DEFINITION. In AS 21.06.300 - 21.06.370,
17 "closed claim" means a demand that is made on a person for money
18 damages for bodily injury arising from alleged tortious conduct of the
19 person, and that meets the following criteria

20 (1) the tortious conduct occurred in the state, or the claim was
21 or could have been litigated in a court of the state or in a federal
22 court in the state; and

23 (2) the claim has been concluded by settlement, by judgment of
24 the trial court if not appealed, or by judgment of the highest court
25 to which the claim was appealed.

26 * Sec. 4. AS 21.34.170 is amended to read:

27 Sec. 21.34.170. [MONTHLY] REPORTS [, SUMMARY OF EXPORTED BUSI-
28 NESS]. On or before the end of each month, each surplus lines broker
29 shall file with the director, on forms prescribed by the director, a

1 verified report in duplicate of all surplus lines insurance transacted
2 during the preceding calendar month showing the following information
3 itemized by kind of insurance:

4 (1) the aggregate gross premiums written; and

5 (2) the aggregate return premiums [BY KIND OF INSURANCE].

6 * Sec. 5. AS 21.34.170 is amended by adding new subsections to read:

7 (b) On or before the end of each calendar quarter, each surplus
8 lines broker, each adjuster that engages in surplus lines insurance,
9 and each business that engages in surplus lines insurance, shall file
10 with the director, on forms prescribed by the director, a verified
11 report of the aggregate claims that were incurred during the quarter
12 and that are known by the broker, adjuster, or business. The report
13 shall include the following information to the extent of the knowledge
14 of the broker, adjuster, or business:

15 (1) the amount of losses experienced in the state, includ-
16 ing amounts paid for the settlement of claims and satisfaction of
17 judgments in the state;

18 (2) amounts held for losses incurred in the state but not
19 reported; and

20 (3) amounts of unpaid claims.

21 (c) The director shall make the reports required by this section
22 available to the public for inspection.

23 * Sec. 6. AS 08.08.241, and AS 21.06.300, 21.06.310, 21.06.320, 21.06.-
24 330, 21.06.340, 21.06.350, 21.06.360, and 21.06.370 are repealed March 31,
25 1992.

26 * Sec. 7. AS 21.06.300, 21.06.310, and 21.06.330, as added by sec. 3 of
27 this Act take effect July 1, 1986.

28 * Sec. 8. Sections 1 and 2 of this Act, and AS 21.06.320, 21.06.340,
29 21.06.350, 21.06.360 and 21.06.370, as added by sec. 3 of this Act, take

1 effect January 1, 1987.

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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

11/7/89
Date

S B

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BILL CONTACT/ACTION

DATE	CONTACT/ACTION
4/1	NOTIFIED TRANSDINATION CMTG CIVILIAN
	SON COMM (4921)
4/1/86	NOTIFIED COMMIS OFFICE OF 1/5/86 IMPROVING

Alaska State Legislature

Senate Transportation Committee



Donch V.
Juneau, Alaska 99811

Sen. John B. (Jack) Foghill, Chairman
Sen. Paul Fischer, Vice-Chairman
Sen. Mitch Abcock
Sen. Jan Fairs
Sen. Joe Josephson

March 4, 1986

TO: All Committee Members
FROM: Committee Staff
RE: SB 458

This bill adds enforcement capabilities to the legislation passed last year setting up insurance requirements and certificates of compliance for air carriers.

Sect. 1 (c) allows the Department of Commerce and Economic Development, Division of Weights and Measures to investigate possible violations of financial responsibility requirements. It also enables DCEC to issue a stop work order when it is found that the air carrier is in noncompliance.

Sect. 2 (e) defines the penalties for violating the insurance requirements. The current penalty, a Class B misdemeanor, is upgraded to a Class A. The fine is increased from a minimum of \$500 to a minimum of \$1000 with the maximum fine to be \$5000 per day of violation. The fine has been capped at \$10,000 for each violation.

Sec. 3 amends AS 42.30.225 (b) and lowers the annual fee for the certificate of compliance from \$50 to \$25.

Sec. 4 amends AS 42.30.225 (e), dealing with certificates of compliance, and allows the Department to investigate whether an air carrier has a certificate of compliance. If not in compliance, the department may issue a stop work order.

Sec. 5 adds a new subsection to AS 42.30.225. The penalty for violating the certificate of compliance requirement is a Class B misdemeanor and may be fined not less than \$500 or no more than \$1000.

Sec. AS 42.30.380(3), a definition section, is amended to add rotorcraft to the definition of aircraft.

CERTIFICATION OF COMPLIANCE OF AIR CARRIERS

- PURPOSE

- WHO DOES IT APPLY TO

- REQUIREMENTS

- PROCEDURES

PURPOSE

The purpose of the certification of compliance of air carriers is to provide the assurance that all persons who carry passengers or freight for commercial purposes intrastate in an aircraft, comply with the provisions in AS 42.30.200 and AS 42.30.225.

These provisions specify that the identified persons procure and maintain minimum amounts of insurance security and that the aircraft used for these purposes must be in compliance with federal safety regulations.

WHO DOES IT APPLY TO

AS 42.30.200 states that a person who carries passengers or freight for commercial purposes intrastate in an aircraft shall procure and maintain security as specified. For purposes of filing with the Department of Commerce and Economic Development, this paragraph is interpreted to mean those aircraft operating intrastate under Federal Aviation Administration regulations part 121 and 135.

AS 42.30.225 further requires that an annual certificate of compliance be obtained before a person uses an aircraft in air commerce.

In defining the applicability of the provisions of AS 42.30.200 - 42.30.380:

1. "air carrier" means a person undertaking to engage in air commerce, whether directly or indirectly, or by lease, contract, or any other arrangement and whether over regular or irregular routes;
2. "air commerce" means carriage by aircraft of persons or freight for commercial purposes or hire in intrastate commerce, including the carriage by aircraft of persons or freight that move partly by aircraft and partly by other forms of transportation;
3. "aircraft" means a propeller or jet powered device used or designed for flight in the air;
4. "commercial purposes" means activities for which the person receives direct monetary compensation and does not include activities incidental to and done in furtherance of the persons primary business.
5. "freight" means commodities, articles, and cargo of whatever nature or value excluding garbage and trash.

REQUIREMENTS

A person who carries passengers or freight for commercial purposes intrastate in an aircraft must maintain the following minimum security:

1. \$150,000 per seat for bodily injury or death in a single occurrence; and
2. \$100,000 for property damage in a single occurrence.

Evidence of insurance must be filed with the Department of Commerce and Economic Development, Division of Measurement Standards, and may not be cancelled on less than 30 days written notice to the Division of Measurement Standards. This notification of cancellation must be clearly stated in the policy or endorsement for an insurance policy submitted as proof of financial responsibility. This 30 day notice period is measured from the date on which the Division of Measurement Standards receives notice.

A person may not use an aircraft in air commerce before obtaining an annual certificate of compliance for that aircraft from the Department of Commerce and Economic Development, Division of Measurement Standards. The application for the certificate of compliance must include:

1. proof of financial responsibility in the amounts previously identified;
2. a copy of the Federal Aviation Administration's air carrier operating certificate, for each aircraft;
3. a Federal Aviation Administration certificate to operate if you are a scheduled air carrier; and
4. a \$50.00 annual fee for each aircraft being certified.

PROCEDURES

1. Complete an application for a certificate of compliance.
2. Attach copies of all required documents as outlined on the application.
3. Include the \$50.00 annual fee for each aircraft.
4. Mail complete application package to:

Division of Measurement Standards
P.O. Box 111686
Anchorage, Alaska 99511

INSTRUCTIONS
APPLICATION FOR
ALASKA AIR CARRIERS CERTIFICATE OF COMPLIANCE

1. Name of the individual making application.
2. Name of business.
3. Mailing address. If the operating location is different, please specify.
4. Date of application.
5. Business telephone number.
6. List those aircraft that are used intrastate in Federal Aviation Regulations part 121 and 135 operation. Do not list those aircraft that are used in parts 61, 91, and 141 operations.

Aircraft Description:

Type of aircraft; make and model.

Passenger Configuration:

Number of passengers the aircraft is configured to carry. If aircraft is used for freight only, so designate. (AS 42.30.200(a) requires \$150,000 per seat for bodily injury or death and \$100,000 for property damage.)

FAA Registration Number:

Federal Aviation aircraft registration number.

7. The total number of aircraft listed in #5. If an addendum sheet is used, include total from #6 plus total from addendum sheet in this section.
8. AS 42.30.225(a). A person may not use an aircraft in air commerce before obtaining an annual certificate of compliance for that aircraft from the Department of Commerce and Economic Development, Division of Measurement Standards.

AS 42.30.225(b). The annual fee for a certificate of compliance is \$50.00.

Multiply the number of aircraft listed in #7 times \$50.00. Place that result in section #8. Enclose that amount with the application.

9. Attach a copy of the Federal Aviation Administration's, Air Carrier Operating Certificate, form number 8430-18.
10. Attach a certificate of insurance or have the insurance company mail the certificate direct. A telex message can be used for temporary verification while waiting for the original certificate. A certificate of compliance cannot be issued without proof of insurance per AS 42.30.225(1).
11. For State Use Only - Do Not Fill In. This form will be returned to you with this section filled in and all required certificates attached.

ORIGINAL AND ONE COPY OF ALL FORMS TO BE RETURNED TO THE DIVISION OF MEASUREMENT STANDARDS

TITLE OF INCREMENT/DECREMENT:	AGENCY CONTACT/PHONE NUMBER:	CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
Air Carrier Program	Marvin Rieger/345-7750	71000	Personal Services	149.4	78.3
DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES: <i>The air carrier financial responsibility bill as passed by the 14th legislative session mandated that the following functions be performed:</i> <ol style="list-style-type: none"> Maintain records on the limits of security and current status on all persons who carry passengers or freight for commercial purposes intrastate in an aircraft; Verify eligibility and issue certificates of compliance upon collection of a \$50.00 annual fee; and Investigate complaints and enforce the provisions of AS 42.30.200 and AS 42.30.225. <p><i>This bill was passed and signed into law without a fiscal note.</i></p> <p><i>The House journal dated June 17, 1985, contained a letter from Governor Sheffield to Representative Grussendorf and is partly quoted for information:</i></p> <p><i>"Dear Representative Grussendorf:</i></p> <p><i>Today I have signed the Conference Committee Substitute for House Bill 133 relating to transportation safety and financial responsibility for Alaska's truckers and air carriers.</i></p> <p><i>Although the substance of this legislation is basically sound and provides some assurance that the instate trucking and air industries operate in a safe manner and with adequate insurance, I am deeply concerned by the failure of the legislature to provide any funding."</i></p>		72000	Travel	15.0	15.0
		73000	Contractual Services	12.0	4.0
		74000	Supplies	1.5	1.5
		75025	Equipment	46.0	11.3
		75690	Lands, Buildings, Etc.		
		77000	Grants, Claims, Etc.		
		78000	Miscellaneous		
		TOTAL		223.9	110.1
		I-A Transfer (NON-ADD)			
		1002	Federal Receipts		
1003	General Fund Match				
1004	General Fund	161.4	47.6		
1005	I-A Receipts				
102B	Program Receipts	62.5	62.5		
	Other				
POSITION INFORMATION		PFT	4	2	
		PPT			
		Non Permanent			
		Staff Months	48	24	
<input type="checkbox"/> Enhance Existing Service <input checked="" type="checkbox"/> Compared to FY 86 <input checked="" type="checkbox"/> New Service Compared to FY 86 <input type="checkbox"/> Continuation of FY 86 <input type="checkbox"/> Service Level		<input type="checkbox"/> Formula Program			
		IMPACT FROM CAPITAL PROJECT (NAME)			
		Chapter _____ SLA _____ Page/Line _____			

C5	INCREMENT/ DECREMENT REQUEST
	Agency Priority <u>24</u> of <u>101</u>

AGENCY DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
 BRU DIVISION OF MEASUREMENT STANDARDS
 COMPONENT Operations
 PROJECT _____

Page <u>1</u> of <u>7</u>
Revised Date _____

FY 87

000050

This increment requests the funds required to perform the administrative and field investigation/enforcement functions.

The administrative function entails the verification of aircraft operating intrastate under Federal Aviation regulations part 121 and 135. Estimates provided by the Alaska Air Carriers Association place the total number of eligible aircraft at approximately 5,000. Verification of compliance with AS 42.30.200 requires that a data base be established that lists aircraft by type, owner, Federal Aviation Administration identification, and verification of insurance. A certificate of compliance is issued for each aircraft. This certificate of compliance must be renewed annually for a \$50.00 fee. Revenue processing and accounts receivable programs will have to be established to monitor all fees collected. Additionally, a policy of insurance may not be cancelled on less than 30 days written notice to the Division of Measurement Standards. Each of these cancellation notices will have to be placed in a suspense file so that if notification of renewal is not received prior to the expiration date, the aircraft will have to be added to a list of non compliance carriers.

In discussions with the insurance industry and the air carriers association, it was stated that each aircraft may involve a change in status up to six times per year. Tracking of these changes to assure statutory compliance places a continual monitoring requirement upon the Division and the generation of a weekly status report.

Notification of non compliance will be mailed to each carrier upon expiration of the insurance.

The administrative portion of the program will provide the records keeping services and the information base but the assurance that the public receives the protection intended by the statute can only be provided through field investigation. Because of the geographic dispersion of the operating carriers, it is essential to place field investigative personnel in locations so that they will be capable of responding in a timely manner.

The field investigations will consist of:

1. Investigation of complaints;
2. Field investigation of operating aircraft to assure compliance; and
3. Field investigation of aircraft identified as not being in compliance to ensure that they are not being used commercially.

C5

ADDITIONAL
EXPLANATION
FORM

(6/84)-ae1

AGENCY DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

BRU DIVISION OF MEASUREMENT STANDARDS

COMPONENT Operations

FY 87

Page 2 of 7

Revised Date

000051

We anticipate using an existing classification so that dual utilization will be possible. This will ensure productive service regardless of workload variation.

The new employees will be housed within existing office space in Anchorage, Fairbanks, and Juneau.

The requested travel funds will provide the capability of investigating complaints and assuring compliance in remote locations throughout the state.

Contractual services funds are required for telephone services, vehicle fixed and operating costs, and printing of forms and certificates of compliance.

Requested supplies are for standard office operating supplies.

The requested equipment consists of a vehicle for each operating location, a micro computer for data base and information management, and standard office furniture and equipment.

Recommend that this increment be funded as follows:

161.4 - General Funds

62.5 - Program Receipts from certificate of compliance fees

<u>Number of Positions</u>	<u>Class Description</u>	<u>Range</u>	<u>Location</u>	<u>Cost</u>
1	Weights and Measures Inspector III	17A	Anchorage	44.9
1	Weights and Measures Inspector I	12B	Fairbanks	37.7
1	Weights and Measures Inspector I	12B	Juneau	33.4
1	Administrative Assistant I	12B	Anchorage	33.4

C5

ADDITIONAL
EXPLANATION
FORM

AGENCY DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

BRU DIVISION OF MEASUREMENT STANDARDS

COMPONENT Operations

Page 3 of 7

Revised Date

FY 87

000052

Increment Cost Recap:

Personal Services: 149.4 - Salaries with 3% underfunding

Travel: 5.2 - Field transportation
6.8 - Field per diem
1.8 - Administrative transportation
1.2 - Administrative per diem

Contractual: 2.1 - Communications
5.1 - HWCF; Vehicle replacement costs
2.7 - Vehicle fuel
1.0 - Printing
1.1 - Minor vehicle repair

Commodities: 1.5 - Standard office supplies

Equipment: 3.2 - Office furniture
1.6 - Typewriter
.2 - Calculators
33.0 - 3 vehicles
8.0 - Micro computers and software

223.9

C5

ADDITIONAL
EXPLANATION
FORM

AGENCY DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

BRU DIVISION OF MEASUREMENT STANDARDS

COMPONENT Operations

Page 4 of 7

Revised Date

FY 87

000053

1 Sec. 42.30.200. AIR CARRIER FINANCIAL RESPONSIBILITY. (a) A person
2 who carries passengers or freight for commercial purposes intrastate in an
3 aircraft shall procure and maintain security in the following minimum
4 amounts:

5 (1) Liability for bodily injury or death of persons:

6 A limit of at least \$150,000 for any one person in any one
7 occurrence and a limit for each occurrence in any one aircraft of at least
8 an amount equal to the sum produced by multiplying one hundred fifty
9 thousand dollars (\$150,000) by seventy five percent (75 percent) of the
10 total rated seating capacity of the aircraft. [\$150,000 PER SEAT FOR
11 BODILY INJURY OR DEATH IN A SINGLE OCCURRENCE; AND]

12 (2) Liability for loss of or damage to property:

13 A limit of at least one hundred thousand dollars (\$100,000)
14 for each occurrence. [\$100,000 FOR PROPERTY DAMAGE IN A SINGLE OCCURRENCE]

15 (b) Evidence of security required under (a) of this section shall be
16 filed with the department and must be

17 (1) a policy or certificate of insurance issued by an insurer
18 acceptable to the department; or

19 (2) a bond of a surety company licensed to write surety bonds in
20 the state; or

21 (3) evidence accepted by the department, showing ability to
22 self-insure; or

23 (4) other security approved by the department.

24 (c) The department may authorize department personnel to enforce this
25 section and may adopt procedural regulations necessary to implement this
26 section.

27

28

Commerce's Proposed Changes to
AS 42.30.200, .205, 380 - (Air
Carrier Financial Responsibility)

1 (d) A policy of insurance, surety bond, or other form of security may
2 not be cancelled on less than 30 days written notice to the department.
3 This requirement must be clearly stated in the policy or endorsement for an
4 insurance policy submitted as proof of financial responsibility under AS
5 42.30.225(a)(1). The 30 day notice period is measured from the date on
6 which the department receives notice.

7 (e) A person who violates [(a) OF] this section is guilty of a class
8 [B] A misdemeanor and is punishable by a fine of not less than [\$500]
9 \$1,000 or more than [~~\$1,000~~] \$5,000.

10
11 Sec. 42.30.225. CERTIFICATION OF COMPLIANCE OF AIR CARRIERS. (a) A
12 person may not use an aircraft in air commerce before obtaining an annual
13 certificate of compliance for that aircraft from the department. The
14 department shall issue or renew a certificate of compliance upon
15 application and presentation of

16 (1) proof of financial responsibility required under AS
17 42.30.200;

18 (2) proof of compliance with Federal Aviation Administration
19 requirements, and, where applicable, federal certification for scheduled
20 airline service.

21 (b) The annual fee for a certificate of compliance is \$50. The
22 certificate is valid for a period of 12 months following the date of
23 certification. The certificate shall be displayed [ON THE AIRCRAFT] so
24 that it [IS] is visible to boarding passengers.

25 (c) The department may investigate complaints or violations of this
26 section and conduct other investigations that the department considers
27 appropriate and advisable to develop information on possible violations of
28 AS 42.30.200 or AS 42.30.225 and may, upon completion of this investigation

1 where a violation of AS 42.30.200(a) exists, issue a stop use order. [USE
2 OF AN AIRCRAFT IN AIR COMMERCE BEFORE OBTAINING A CERTIFICATE OF COMPLIANCE
3 REQUIRED UNDER (a) OF THIS SECTION MAY BE CAUSE FOR DENIAL OF THE
4 CERTIFICATE]

5 (d) A person who violates this section is guilty of a class B
6 misdemeanor and is punishable by a fine of not less than \$500 or more than
7 \$1,000. [A PERSON WHO HAS OBTAINED A CERTIFICATE TO USE AN AIRCRAFT IN AIR
8 COMMERCE FROM THE ALASKA TRANSPORTATION COMMISSION BEFORE THE EFFECTIVE
9 DATE OF THIS ACT IS NOT REQUIRED TO OBTAIN A CERTIFICATE OF COMPLIANCE
10 UNDER (a) OF THIS SECTION UNTIL THE DATE THE INSURANCE POLICY FOR THE
11 AIRCRAFT IS RENEWED]

12 (e) The department may authorize department personnel to enforce this
13 section and may adopt procedural regulations necessary to implement this
14 section.

15
16 Sec. 42.30.380. DEFINITIONS. (a) In AS 42.30.200 - 42.30.380,

17 (1) "air carrier" means a person undertaking to engage in air
18 commerce, whether directly or indirectly, or by lease, contract, or any
19 other arrangement, and whether over regular or irregular routes;

20 (2) "air commerce" means carriage by aircraft of persons or
21 freight for commercial purposes or hire in intrastate commerce, including
22 the carriage by aircraft of persons or freight that move partly by aircraft
23 and partly by other forms of transportation;

24 (3) "aircraft" means a propeller, rotor or jet powered device
25 used or designed for flight in the air;

26 (4) "commercial purposes" means activities for which the persons
27 receives direct monetary compensation and does not include activities
28 incidental to and done in furtherance of the person's primary business;

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

(6) "freight" means commodities, articles, and cargo, of whatever nature or value, excluding garbage and trash.



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

11/7/89
Date

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**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : _____

REQUEST

Bill/Resolution No. : SB464
 Title : "An Act relating to the duties of
 the Commission on Judicial Conduct:"
 Sponsor : The Judiciary Committee
 Requestor : The Judicial Council & The Judicial
 Date of Request : 2/3/86 Conduct Commission

FISCAL DETAIL

Agency Affected : _____
 BRU : _____

 Components : _____

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

This bill has no fiscal impact, as it requires no additional operating expenditures, funding or positions.

Prepared by : *Francis L. Bremson* Francis L. Bremson Phone : (907) 279-2526
 Division : Alaska Judicial Council Date : 3/20/86

Approved by Commissioner : *Francis L. Bremson* Francis L. Bremson Date : 3/20/86
 Agency : Alaska Judicial Council

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Introduced: 3/14/86
Referred: Judiciary

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 SENATE BILL NO. 464

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the duties of the Commission on
7 Judicial Conduct."

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

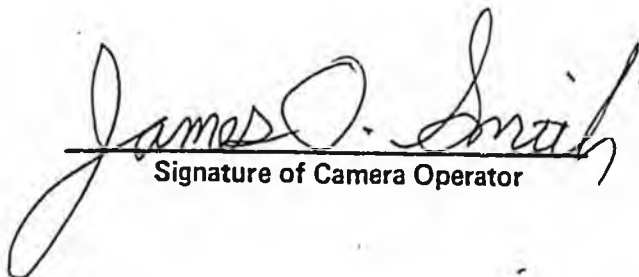
9 * Section 1. AS 22.30.011(f) is amended to read:

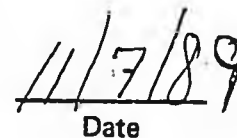
10 (f) If the commission decides to reprimand a judge privately,
11 the commission shall forward the reprimand to the judge. A copy of
12 the reprimand shall be sent to the chief justice of the supreme court
13 and to the judicial council. A private reprimand is confidential.
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RECORDS 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.


Signature of Camera Operator


Date

S B

4 7 0

BILL CONTACT/ACTION

DATE	CONTACT/ACTION
4/9	LIZ MICHELSON IS AWARE OF WRITING
	IS ARRANGING PEOPLE TO TESTIFY

Alaska State Legislature



CO-CHAIRMAN
FINANCE COMMITTEE
907-465-3740

JAN FAIKS
POLCH V
CAPITOL BUILDING
JUNEAU ALASKA 99811

Senate

March 27, 1986

MEMORANDUM

TO: Senate Finance Committee Members
FROM: Jan Faiks, Co-Chairman
Senate Finance Committee
SUBJECT: Finance Committee Sponsored Bill

With the committee's concurrence, I would like to introduce a committee sponsored bill which makes several amendments to the Uniform Common Interest Ownership Act which was approved by the Legislature last session.

The amendments are the result of recommendations offered by a joint industry committee consisting of representatives from the Alaska Realtors Association, AHFC, Alaska Land Title Association and the Association of Mortgage Bankers. Basically, the bill will do the following:

1. Clarifies the procedures which must be followed in planned communities (especially single family units) where there is limited common elements such as road maintenance and/or common wells. In planned communities, typically there is no homeowners association thereby making it not possible to comply with some of UCIOA's provisions such as the Association providing a re-sale certificate. Instead, the amendment provides for an alternative means of disclosing to potential buyers all obligations associated with the real estate.
2. Makes all condominiums subject to the Act (currently it pertains to those with 12 or more units).

OUT OF SESSION



3. Provides an Association with the ability to go to court when it has a problem in amending its declarations (such as the inability to get 100% of the homeowners to agree due to absence from the property). This is patterned after a California law.

I would like to introduce the legislation on Friday, March 28th. As a result, would you please let me know if you have any problems associated with the committee's sponsorship of it.

Attached is a sectional analysis as well as draft of the bill. Should you have any additional questions, please let me know.

Thank you.

TO: SENATOR JAN FAIKS
SENATOR RICK HALFORD

FROM: ELIZABETH J. HICKERSON

SUBJECT: UCIOA AMENDMENTS

DATE: MARCH 26, 1986

During the last month I have met on a number of occasions with representatives from the Joint Industry Committee which was formed to make recommendations concerning UCIOA. Based on their concerns and with legal advise from Don Buck and numerous Alaska lawyers that are engaged in the real estate practice, the attached draft bill was developed.

The following is a sectional analysis of the draft.

Section 1. AS 34.08.020 is amended as follows:

it is made clear that this section applies to cooperatives that are created after January 1, 1986; and,

financing from AHFC is deleted.

Problem solved: It is now clear which cooperatives are only subject to the universal sections, AS 34.08.720 - 740 (nonresidential or 12 units and no development rights). Financing from AHFC was a problem because as a practical matter, all cooperatives are or might be subject to this type of financing, and therefore the intent of the uniform act was frustrated.

Cooperatives in Alaska are few - three or four statewide - according to the people in the industry, so there will be little affect. However, if a cooperative is created after January 1, 1986, the declarant may opt in under the entire act.

Section 2. AS 34.08.030 is amended as follows:

the exemption only applies to planned communities not subject to development rights or whose assessments are limited to \$100 per unit annually;

financing from AHFC is deleted; and,

condominiums regardless of size are subject to the entire act under AS 34.08.010.

Problem solved: Planned communities with limited assessments and no development rights which are created after the date of this amendment are only subject to the universal sections. The entities which are

exempted must still provide disclosures based on the common law if they decide not to opt into the entire act.

Section 3. The provisions of this section were included under AS 34.08.030. With the amendments to that section, it was the determination of the drafter that a separate section be created.

Section 4. AS 34.08.040 is amended to include AS 34.08.510 as an applicable section for preexisting common interest communities.

Problem solved: This clarifies that AS 34.08.510 applies to preexisting communities. While this section is referenced in AS 34.08.590, which is an applicable section, this amendment removes any doubt.

A planned community which limits its annual assessments to \$300 in its declaration is not required to provide a public offering statement or a resale certificate under AS 34.08.510. This solves a number of problems for planned communities with limited responsibilities which do not have the ability to provide resale certificates.

Section 5. A new section is created which is based on the California law. Under this section, an association or unit owners may petition the court to amend their declaration when it has been impossible to secure the necessary number of votes. The petition must state what efforts have been made to solicit the approval of the unit owners, what amendments are sought, the effect of the amendments, etc. The court may not approve amendments which eliminate a special right, preference or privilege, or that would impair the security interest of a mortgagee. Numerous due process provisions are included.

Problem solved: This makes it possible for declarations to be amended when owners are absent or refuse to participate personally or through a proxy. (McNall recommendation)

Section 6. A new section is added that allows associations or unit owners to petition the court for an extension of the termination date contained in the declaration. This would be accomplished by utilizing the procedures contained in the above referenced Section 4. This is also based on the California statute.

Problem solved: This makes it possible for declarations to be amended when owners are absent or refuse to participate personally or through a proxy. (McNall recommendation)

Section 7. Amends AS34.08.470(j) by repealing the nonjudicial lien foreclosure procedure under AS 34.20.070 (Deed of Trust).

Problem solved: When this section was drafted a legal fiction was created. Associations could use the Deed of Trust provisions which

allow nonjudicial sale of property. The problem with this is that associations are not parties to the Deed of Trust. This drove the title people crazy. Most of the my time over the last week has been spent on this provision, trying to figure out what was the best way to go. After talking to no less than ten attorneys and a superior court judge and reviewing the comments to UCIOA carefully, I determined that this remedy should be repealed. Associations may still proceed under the lien foreclosure provisions of AS 34.35.005 or sue on a breach of contract.

If the banks will cooperate with associations and apply pressure on delinquent unit owners, then court action and its associated expense can be avoided.

Section 8. AS 34.08.590 is amended by adding an alternative resale certificate as follows:

Unit owners in a planned community that was created after January 1, 1986, not exempt under AS 34.08.050 (communities 12 and under), does not collect assessments and does not have an association or board members, may provide an affidavit instead of a resale certificate.

The affidavit must include:

a statement that no assessments are collected; date and amount of last assessments; and the reason that assessments ceased;

a statement that no association exists or no board/officers exist;

copies of the declaration, bylaws, rules, etc.;

a brief description of the real estate and all obligations associated with that real estate.

Problem solved: In situations where no associations exists and therefore it is impossible for a resale certificate to be provided, the unit owner is able to provide an affidavit that discloses the vital information associated with the property.

Section 9. A new section is added that concerns those condominiums that were created after January 1, 1986 but before the date of the amendment to AS 34.08.030. These entities relied on the law that existed at the time, and could have been exempted from the majority of the act at time of creation. It protects their interests, but provides that acts and occurrences after the effective date of the amendment will be regulated under AS 34.08.040.

Problem solved: The few condominiums created during this short period will be grandparented in under the provisions for preexisting common interest communities.

I have been told that these amendment will be endorsed by:

Alaska Realtors Association
AHFC
Alaska Land Title Association
Asscciation of Mortgage Bankers

ALASKA MUTUAL BANK

April 7, 1986

Patrick Rodey, Chairman
Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

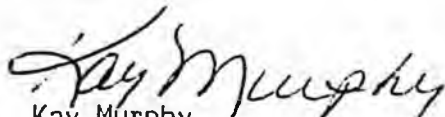
Dear Senator Rodey:

Alaska Mutual Bank recommends passage of Senate Bill 470. We support the basic intent of the Uniform Common Interest Ownership Act (UCIOA) and agree that full disclosure to purchasers of units in common interest communities is appropriate. However, it has become apparent since the effective date of the Act that refinements to UCIOA were necessary.

As it exists now, UCIOA works well in highly structured common interest communities. However, the addition of subparagraph (d) to section 590 is necessary to assist many owners in limited common interest communities in complying with the Act and providing adequate disclosure to purchasers. The inclusion of the wording "... financing from the Alaska Housing Finance Corporation..." had the effect of negating the exemptions found in sections 020 and 030 of the Act.

The amendments to UCIOA are the result of a cooperative effort by members of various real estate industry groups all working toward one goal: a law that is appropriate for the various types of communities in the State and one that will provide adequate disclosure to real estate purchasers. Senate Bill 470 meets that goal.

Sincerely,


Kay Murphy
Vice President

KM:rm



ALASKA MORTGAGE BANKERS ASSOCIATION

P.O. BOX 4-2691/ANCHORAGE, ALASKA 99509

April 4, 1986

Members
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 470

Honorable Senators and Representatives:

The Alaska Mortgage Bankers Association recommends passage of Senate Bill 470.

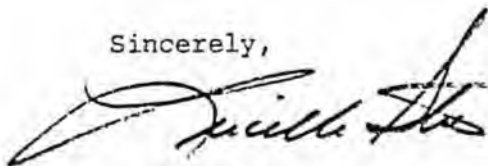
The Uniform Common Interest Ownership Act took effect on January 1, 1986. The law provides for disclosure of certain information to purchasers of property in common interest communities as well as defining those communities. We support the intent of the law and the disclosure requirements on large and/or structured common interest communities.

It became apparent when implementing the law that certain refinements were needed, especially as regards small and/or limited common interest communities. Our Association, along with others in the real estate industry have worked with legislative staff toward a goal of amending the law. Senate Bill 470 incorporates the refinements the industry felt were needed and should solve the problems encountered by the real estate industry, title companies, lenders and consumers in working with the Uniform Common Interest Ownership Act.

We feel passage of the bill would result in a workable law which encompasses the intent of the legislature and the intent of the Model Act.

Should you have any questions, we will be happy to discuss this at your convenience.

Sincerely,



Lucille Stietz
Vice President
907-265-2860

PROPOSED JUDICIARY COMMITTEE SUBSTITUTE
SENATE BILL 470
Sectional Analysis

Section 1.

AS 34.08.010 is amended to include the regulation of all residential condominiums and cooperatives under the common interest ownership act.

Section 2.

AS 34.08.030 is amended to apply only to planned communities in which there are no development rights and whose annual assessments are limited to \$100 per unit.

Section 3.

The wording of this new section was contained in the original AS 34.08.030.- Due to the modifications to that section, the drafter recommended a new section be created.

Section 4.

AS 34.08.040 is amended to include AS 34.08.510 as an applicable section to preexisting common interest communities. AS 34.08.510 is referenced in AS 34.08.590 (Resale certificates) but was not included under AS 34.08.040. This addition clarifies the applicable sections.

Section 5.

A new section is added that gives associations the ability to petition the court in order to amend declarations. This is needed to modify declarations which have no provisions for amendments or whose declarations require a high percentage of unit owners to vote on amendments. Adequate due process provisions are included. This is adopted from the California law.

Section 6.

A new section is added that gives associations the ability to petition the court in order to extend the termination date of the declaration. This is needed where no provisions for extension are provided in declarations. Adequate due process provisions are included. This is adopted from the California law.

Section 7.

AS 34.08.470 is amended by repealing the nonjudicial lien foreclosure procedures under AS 34.20.070 (Deed of Trust) as apply to condominiums and planned communities. The remedy available under the Deed of Trust statute was intended to be available only to the

original parties to the deed, and thus is inappropriate for nonparties, particularly condominiums and planned communities.

Section 8.

AS 34.08.590 is amended by adding an alternative resale certificate for planned communities where there is no association or officers and where no assessments are collected.

Section 9.

This section was added in order to comply with the revisions to AS 34.08.020 and AS 34.08.030.

Section 10.

AS 34.08.020 is repealed. Cooperatives by nature are creatures of statutory law and should be regulated by the Common Interest Ownership Act.

Bradley
4/9/86

Original sponsor: Finance Committee

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 470 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Uniform Common Interest
7 Ownership Act."

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

9 * Section 1. AS 34.08.010 is amended to read:

10 Sec. 34.08.010. APPLICABILITY GENERALLY. Except as provided in
11 AS [34.08.020 AND] 34.08.030, this chapter applies to each common
12 interest community created within the state after January 1, 1986.
13 The provisions of AS 10.15 and AS 34.07 do not apply to common
14 interest communities created after January 1, 1986.

15 * Sec. 2. AS 34.08.030 is amended to read:

16 Sec. 34.08.030. APPLICABILITY TO [SMALL AND] LIMITED EXPENSE
17 LIABILITY PLANNED [COMMON INTEREST] COMMUNITIES. If a planned [COM-
18 MON INTEREST] community created after January 1, 1986, [CONTAINS NO
19 MORE THAN 12 UNITS AND] is not subject to any development rights and
20 [OR FINANCING FROM THE ALASKA HOUSING FINANCE CORPORATION OR] pro-
21 vides, in its declaration, that the annual average common expense
22 liability of all units restricted to residential purposes, exclusive
23 of optional user fees and any insurance premiums paid by the asso-
24 ciation, may not exceed \$100, as adjusted under AS 34.08.820, the
25 planned [COMMON INTEREST] community is subject only to AS 34.08.720 -
26 34.08.740 unless the declaration provides that the entire chapter is
27 applicable. [A DECLARANT MAY NOT SUBDIVIDE REAL PROPERTY UNDER SINGLE
28 OWNERSHIP INTO TWO OR MORE COMMON INTEREST COMMUNITIES TO AVOID THE
29 APPLICATION OF THIS CHAPTER.]

1 * Sec. 3. AS 34.08 is amended by adding a new section to read:

2 Sec. 34.08.035. PROHIBITED SUBDIVISIONS. A declarant may not
3 subdivide real property under single ownership into two or more common
4 interest communities to avoid the application of this chapter.

5 * Sec. 4. AS 34.08.040 is amended to read:

6 Sec. 34.08.040. APPLICABILITY TO PREEXISTING COMMON INTEREST
7 COMMUNITIES. Except as provided in AS 34.08.050, the provisions of
8 AS 34.08.110, 34.08.120, 34.08.290, 34.08.320(1) - (6) and (11) -
9 (16), 34.08.420, 34.08.470, 34.08.490, 34.08.510, 34.08.590, 34.08.-
10 670, 34.08.720, 34.08.730, 34.08.740, and 34.08.990, to the extent
11 necessary in construing any of those sections, apply to all common
12 interest communities created in the state before January 1, 1986,
13 except that the sections apply only with respect to events and circum-
14 stances occurring after January 1, 1986, and do not invalidate exist-
15 ing provisions of the declaration, bylaws, or plats or plans of the
16 common interest communities.

17 * Sec. 5. AS 34.08 is amended by adding a new section to read:

18 Sec. 34.08.255. AMENDMENT OF A DECLARATION WHERE FEWER THAN 50
19 PERCENT OF UNIT OWNERS APPROVE. (a) If a declaration requires owners
20 having more than 50 percent of the votes in the association in a
21 single class voting structure or unit owners having more than 50
22 percent of the votes in more than one class in a voting structure with
23 more than one class to vote in favor of an amendment in order to amend
24 a declaration, the association or a unit owner may petition the supe-
25 rior court for the judicial district in which the common interest
26 community is located for an order reducing the percentage of the
27 affirmative votes necessary for the adoption of the amendment. The
28 petition shall describe the efforts that have been made to solicit the
29 approval of the unit owners in the association in the manner required

1 by the declaration, the number of affirmative and negative votes
2 actually received, the number or percentage of affirmative votes
3 required to adopt the amendment under the declaration, and any other
4 matter the petitioner considers relevant to the determination of the
5 court. The petition must include as exhibits to the petition a copy
6 of

7 (1) the governing documents;

8 (2) a complete text of the amendments;

9 (3) a copy of each notice and the solicitation materials
10 used in the solicitation of the approval of the amendment by the unit
11 owners;

12 (4) an explanation of the reason for the amendment;

13 (5) other documentation relevant to the determination by
14 the court.

15 (b) When the petition is filed with the superior court, the
16 court shall set the matter for hearing and issue an ex parte order
17 setting out the manner in which notice shall be given to the unit
18 owners in the association.

19 (c) The court may, but is not required to, grant the petition if
20 it finds that

21 (1) the petitioner has given not less than 15 days' written
22 notice of the court hearing to

23 (A) each unit owner in the association;

24 (B) a mortgagee of a mortgage or beneficiary of a deed
25 of trust that is entitled to notice under the provisions of the
26 declaration; and

27 (C) the municipality in which the common interest
28 community is located if it is entitled to notice under the decla-
29 ration;

1 (2) the balloting on the proposed amendment was conducted
2 under each of the applicable provisions of the declaration, bylaws,
3 and rules or regulations of the association;

4 (3) a reasonable diligent effort was made to permit each
5 eligible unit owner to vote on the proposed amendment;

6 (4) in a common interest community with a single class
7 voting structure, unit owners with more than 50 percent of the votes
8 voted in favor of the amendment;

9 (5) in a voting structure with more than one class and
10 where the declaration requires a majority of more than one class to
11 vote in favor of the amendment, unit owners having more than 50 per-
12 cent of the votes in each class required by the declaration to vote in
13 favor of the amendment did vote in favor of the amendment;

14 (6) the amendment is reasonable; and

15 (7) granting the petition is appropriate considering the
16 circumstances.

17 (d) If the court makes the findings required in (c) of this
18 section, an order issued under this section may

19 (1) confirm the amendment as being validly approved on the
20 basis of the affirmative votes actually received during the balloting
21 period; or

22 (2) dispense with a requirement relating to quorums or to
23 the percentage of votes needed for approval of an amendment under the
24 governing documents.

25 (e) A court may not approve an amendment to a declaration under
26 this section that

27 (1) would change the provision in a declaration requiring
28 the approval of unit owners having more than 50 percent of the votes
29 in more than one class to vote in favor of an amendment unless more

1 than 50 percent of the unit owners in each affected class of unit
2 owners approve the amendment;

3 (2) would eliminate a special right, preference, or privi-
4 lege designated in the declaration as belonging to the declarant
5 without the approval of the declarant; or

6 (3) would impair the security interest of a mortgagee of a
7 mortgage or the beneficiary of a deed of trust without the approval of
8 the percentage of the mortgagees and beneficiaries specified in the
9 declaration if the declaration requires the approval of a specified
10 percentage of the mortgagees and beneficiaries.

11 (f) An amendment to the declaration approved under this section
12 is not effective until the order of the court and the amendment have
13 been recorded in each recording district in which a portion of the
14 common interest community is located. The amendment may be acknowl-
15 edged by, and the court order and amendment may be recorded by, an
16 individual designated in the declaration or by the association and, if
17 no one is designated for that purpose, by the president of the asso-
18 ciation. On the recording of the amendment and the court order, the
19 declaration, as amended under this section, has the same force and
20 effect as if the amendment were adopted in compliance with the decla-
21 ration.

22 (g) Within a reasonable time after the recording of the amend-
23 ment under (f) of this section, the association shall mail a copy of
24 the amendment to each unit owner in the association together with a
25 statement that the amendment has been recorded.

26 * Sec. 6. AS 34.08.260 is amended by adding new subsections to read:

27 (m) A declaration that specifies a termination date but that
28 does not contain a provision for the extension of the termination date
29 may be extended

1 (1) by the approval of the unit owners having more than 50
2 percent of the votes in the association;

3 (2) by the approval of the unit owners having the percent-
4 age of votes as specified in the declaration for an amendment to the
5 declaration; or

6 (3) if the approval of unit owners having more than 50
7 percent of the votes in the association is required to amend the
8 declaration, under AS 34.08.255.

9 (n) An amendment to a declaration under (m) of this section
10 becomes effective when it has been recorded in each recording district
11 in which a portion of the common interest community is located.

12 (o) A single extension of the terms of a declaration made under
13 this section may not exceed the initial term of the declaration or 20
14 years, whichever is less. More than one extension of the term may
15 occur under this section.

16 * Sec. 7. AS 34.08.470(j) is amended to read:

17 (j) The association's lien may be foreclosed under this subsec-
18 tion:

19 (1) in a condominium or planned community, the lien of the
20 association must be foreclosed [AS A MORTGAGE OR DEED OF TRUST ON REAL
21 ESTATE IS FORECLOSED, OR] as a lien is foreclosed under AS 34.35.005;

22 (2) in a cooperative whose unit owners' interests in the
23 units are real estate, the lien of the association must be foreclosed
24 as a mortgage or deed of trust on real estate is foreclosed or as a
25 lien is foreclosed under AS 34.35.005; or

26 (3) in a cooperative whose unit owners' interests in the
27 units are personal property, the lien of the association must be
28 foreclosed as a security interest under AS 45.09 [; OR

29 (4) IN THE CASE OF FORECLOSURE UNDER AS 34.20.070, THE

1 ASSOCIATION SHALL GIVE REASONABLE NOTICE OF ITS ACTION TO EACH LIEN
2 HOLDER OF A UNIT WHOSE INTEREST WOULD BE AFFECTED].

3 * Sec. 8. AS 34.08.590 is amended by adding a new subsection to read:

4 (d) A unit owner in a planned community that was created before
5 January 1, 1986, is not exempt under AS 34.08.050, and does not col-
6 lect assessments as a planned community and has not formed an asso-
7 ciation or elected officers or an executive board may comply with (a)
8 and (b) of this section by furnishing the purchaser of the unit an
9 affidavit in recordable form

10 (1) stating that assessments are not collected, the last
11 date assessments were collected, if known, the amount of the last
12 assessment, if known, and the reason assessments ceased;

13 (2) stating that an association has not been formed or that
14 no officers or executive board exists; and

15 (3) providing the purchaser a copy of

16 (A) the recorded declaration, if any, and any amend-
17 ment to the declaration;

18 (B) bylaws, rules, and regulations of the association,
19 if any; and

20 (C) a brief narrative description of

21 (i) the real estate comprising the planned commu-
22 nity; and

23 (ii) obligations to pay for real estate taxes,
24 insurance premiums, maintenance, and improvements of the
25 real estate described in the declaration.

26 * Sec. 9. In a condominium or cooperative created after January 1,
27 1986, and before the effective date of this Act, the provisions of
28 AS 34.08.040 apply to events and occurrences concerning the condominium or
29 cooperative occurring after the effective date of this Act.

1 * Sec. 10. AS 34.08.020 is repealed.
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