

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 86/2  
7114 HOUSE LABOR & COMMERCE

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February 25, 1991

Senator Pat Pourchot  
Alaska State Senate  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Pourchot:

Thank you for your request to the Alaska Legal Services Corporation (ALSC) Board of Directors for comments on Senate Bill 35, which proposes amendments to the Uniform Residential Landlord and Tenant Act (URLTA). ALSC frequently represents clients in cases brought under the URLTA, and the Board asked that we respond to this opportunity to comment.

Senate Bill 35 proposes two significant changes to current landlord-tenant law: (1) a reduction from ten days to five in the period a tenant may pay rent after receiving a notice of non-payment, and (2) the addition of a drug-related arrest as a grounds for eviction. On behalf of our clients, ALSC opposes both of these changes for the reasons set forth below.

**I. THE FIVE-DAY CURE PERIOD**

**A. SUBSTANTIVE CONCERNS**

*(1) Current Law*

Under current law, a ten-day notice must be given to a tenant before a landlord may pursue eviction for non-payment of rent. AS 34.03.220(b). The notice specifies that the tenant must "cure" the non-payment within ten days or the tenancy will terminate. If a second non-payment occurs within six months, the 10-day notice does not have to include a cure period. As a result, landlords do not have to give tenants more than one chance to rectify late payment. In our view, the current ten-day cure period achieves the proper balance between a landlord's interest in the timely payment of rent and a tenant's interest in preserving his or her shelter.

*(2) Ramifications of Proposed Change*

The bill's proposed change would reduce the current cure period to five days. The five-day period may marginally benefit landlords, but would seriously jeopardize the ability of many tenants, particularly those with low incomes, to take steps to remain in their homes. The marginal benefit to landlords is, in our view, greatly outweighed by the harm to tenants.

While it may seem insignificant, the additional five days provided under current law is often critical to a tenant's ability to gather the funds necessary to meet his or her rental obligation. For example, many of our clients rely on public assistance checks to pay their rent. Checks are frequently delayed for a variety of reasons, including

agency back-logs, overwhelming caseloads, computer malfunctions, and other circumstances beyond a tenant's control. Absent a statutory exception to the cure period for late governmental checks, a landlord does not have to accept rent that is late for these reasons, and tenants can be evicted through no fault of their own. The extra time provided by the current 10-day period helps prevent this unfair hardship, which will fall most onerously on the single or unemployed parents, children, and disabled people who comprise the vast majority of welfare recipients.

Additionally, indigent tenants frequently seek rental assistance of \$120.00 per household member through General Relief (GR) program or the Division of Public Assistance (DPA). They can initiate an application for this benefit only by presenting a current eviction notice to their DPA caseworker. According to DPA staff, it takes one to two weeks for a GR applicant to receive an appointment, and up to 30 days after the interview to process the check. Even under current law it is difficult for tenants to receive the benefits of this program within the statutory cure period; under a shortened five-day period, it may well be impossible.

People living in poverty, or on the edge of poverty, must also avail themselves of relief organizations and other sources of financial help that cannot consistently respond on an expedited basis. For example, the Municipality of Anchorage's Emergency Services office can provide emergency financial assistance to persons having difficulty paying their rent, but it takes an average of two to three weeks for the checks to be delivered to landlords. People who lose their jobs may find themselves in times of severe financial crisis as they wait for unemployment or assistance to be processed. A missed or late paycheck during periods of sporadic employment can mean the difference between shelter and homelessness for workers and their families.

The need for the ten-day cure period is especially great in these difficult economic times. The rise in Alaska's welfare rolls documented in late 1990 underscores the difficult times we are in. See, *"Welfare Rolls Are Up; Normal Seasonal Decline Not Seen," Anchorage Daily News* (December 2, 1990), attached as Exhibit A. In the fall of 1990, Anchorage experienced a marked rise in rental rates, a sharp reduction in vacancy rates for residential units, and an alarming increase in homelessness. News articles have described the tightening rental market and grim outlook for low-income residential tenants. See Exhibits B - H, attached. The Municipality of Anchorage's Emergency Services office served over twice as many people in 1990 as in 1989, and more people in January 1991 alone than in all of 1989. Exhibit I; conversation with MOA staff. ALSC is very concerned that reducing the current ten-day cure period by half at a time when low-income tenants are faced with few residential options will increase the already significant risk of homelessness for our clientele.

Under the above circumstances, the ten-day cure period--while not always sufficient--creates a much better chance that needed funds can be raised and tenancies preserved. No one would expect private landlords to shoulder more than their share of the burden of tenants who cannot timely pay, but the legislature can implement procedures that fairly balance this burden. The legislature must recognize that many people who cannot pay their rent on time are not willfully flouting their rental obligation. They are struggling to manage under difficult circumstances, and the legislature should join the efforts to help them succeed.

The need for positive legislative action is now particularly acute. In response to the concerns of social services agencies, Anchorage Mayor Tom Fink convened a Task

Force on Emergency Shelter and the Homeless in November 1990. The task force issued a final report in December 1990 with a broad range of recommendations, including increased state funding for housing assistance programs and increased legislative attention to the problem. ALSC agrees with this assessment, and urges that any legislative action that makes it more difficult for tenants to preserve their shelter in private markets must be accompanied by a substantial commitment to increase the availability of public units for low-income people. Otherwise, the legislature remedies a minor problem (late rent to private landlords) by creating a major one (increased homelessness). We would strongly support steps to address the housing needs of the poor such as those proposed by Rep. Kay Brown in House Bills 152 and 153. See Exhibit J.

## B. PROCEDURAL CONCERNS

In addition to the above substantive issues, ALSC has significant procedural concerns about the reduced cure period. A landlord may file a complaint for eviction at the close of the statutory cure period, which would be only five days under the bill's proposal. AS 34.03.290 (c); AS 09.45.100, .110. Under current Alaska laws, a tenant is entitled to only a 48-hour notice of an eviction hearing. AS 09.45.120. If the landlord prevails at the eviction hearing, courts typically give tenants only 48 hours to vacate.

These summary procedures raise concerns that tenants do not have adequate time to prepare and present possible defenses to eviction, such as rental offsets based on a landlord's failure to maintain a habitable premises or a landlord's unlawful conduct (utility shut-off, lock-out, etc.). Other states have addressed these concerns by providing significantly longer time frames in judicial eviction proceedings. For example, California provides for only a three-day notice of eviction for non-payment of rent, but imposes procedures that require from 16 to 22 days between the original notice and actual sheriff's eviction in uncontested cases, and from 32 to 66 days in contested cases. See, e.g., *"Unlawful Detainer Procedures and Time Chart"*, attached as Exhibit K. Alaska's current eviction procedures are decades-old and incompatible with the modern changes to landlord-tenant law enacted in the URLTA. If the legislature is to contemplate changes to the landlord-tenant act that narrow substantive tenant protections, it should give serious consideration to strengthening procedural protections that are currently inadequate. See, Clocksin, Donald E., *Alaska's Summary Eviction Law - A Confused Anachronism*, 4 UCLA-ALASKA LAW REVIEW 56 (1974).

Even under current eviction procedures, it is questionable whether the the proposed five-day notice will significantly impact the time between notice and actual eviction. Alaska courts have postponed eviction hearings when necessary to ensure a tenant's right to a full and fair trial on the eviction claim. Shortening the cure period as proposed will have only a minor impact on the time it takes to complete an eviction in these cases because court rules and court procedures, not notice provisions, will govern. It is also quite possible that courts will give tenants more time to vacate rental units once eviction is ordered as a result of the reduced notice period.

## C. CONCLUSION: FIVE-DAY NOTICE

In summary, the ten-day notice provision under current law gives tenants a realistic one-time opportunity to pay rent late in times of hardship and achieves a fair balance between the rights of landlords and tenants. The proposed five-day notice period raises serious substantive and procedural concerns and would marginally

benefit the relatively small number of private landlords at the expense of far greater numbers of residential tenants.

## I. DRUG ARREST AS A GROUNDS FOR EVICTION

ALSC shares your concern about the need to confront the drug problem. As representatives of low-income tenants, we are well aware of the dangers that drug-dealing and related crimes pose to the health and vitality of low-income neighborhoods. But we suggest that the drug war is better fought in other ways. The proposed legislation is of questionable necessity, is potentially constitutionally infirm, and will do little to improve the welfare of residential tenants in Alaska.

### A. UNNECESSARY

First, it can be fairly assumed that the characteristics of drug-related activity most inimical to the welfare and peace of neighbors are noise, traffic, and disturbances. Under current law, a tenant already has an obligation to "not unreasonably disturb, or permit others on the premises with the tenant's consent to unreasonably disturb, a neighbor's peaceful enjoyment of the premises." AS 34.03.120(6).

A landlord who wishes to evict a tenant whom he or she believes is engaging in drug-dealing will doubtless have no trouble under the above provision. He or she must simply give the tenant a notice explaining that the noise, traffic, and disturbances must stop within ten days or the tenancy will terminate within twenty days. AS 34.03.220(a). If the problem is not corrected, an eviction may be brought.

Although ALSC is rarely involved in eviction cases where drug-dealing is specifically alleged, we have been involved in cases where allegations of noise and other attributes of drug-dealing have been made. If the landlord can demonstrate that the behavior occurred and continued despite notice, the tenant may be evicted. ALSC questions the propriety of short-circuiting this process by creating a category of tenant default (drug arrest) that bears no necessary relationship to whether or not a person poses a threat to the quiet enjoyment of his neighbors. In summary, if drug activities are occurring, a landlord will likely have grounds for eviction under current law. The possibility that in rare instances a tenant might carry on a drug operation without noise, traffic, or disturbance does not justify the current legislation.

### B. UNCONSTITUTIONAL

At first blush, the prohibition against illegal drug activity in rental premises found in proposed section (8) of AS 34.03.120 appears compelling. The proposed language would appear to apply only to those who *knowingly* engage in illegal activity or *knowingly* permit others to do so. However, the bill proposes definitions of illegal drug-related activity that would base eviction on an *arrest* alone, which effectively eliminates the knowledge factor and creates strict liability for a drug-related arrest of anyone in a household. Parents and children could be evicted for the drug arrest of a juvenile or relative regardless of whether they knew of the alleged conduct or could control it. Whole families could be evicted for the activities of one member, or for an isolated incident that none could have foreseen. In this sense, the bill goes well beyond the scope indicated by the language of section (8).

The proposed bill raises serious questions of constitutionality because of its reliance on a mere *arrest* as a basis for eviction. To prevail at an eviction hearing, a landlord

would have to prove only that an arrest was made. There is no requirement that the court permit a tenant to present defenses of any kind; it would be irrelevant whether the arrest was in fact valid or whether the alleged illegal conduct in fact occurred. An arrest can be made if a police officer has "probable cause" to believe a crime has occurred; "probable cause" is not proof of guilt under either the general civil standard (preponderance of the evidence) or the criminal standard (beyond a reasonable doubt). No court is involved in the arrest itself, and no judicial finding of any kind is made.

The proposed bill has already received severe criticism from the American Civil Liberties Union for penalizing tenants by assuming that they are guilty before they have an opportunity to prove their innocence. See, "*ACLU Assails Tenant Evictions in Drug Arrests*," *Anchorage Times* (December 17, 1990), attached as Exhibit L. Regardless of whether one agrees with the ACLU's view, the legislature should consider that valid and potentially successful challenges to enforcement of the proposed bill would likely arise.

There are several potentially persuasive legal arguments against the provision. First, it raises concerns under the Fourth Amendment, which guarantees the right to be free from unreasonable governmental intrusion in one's own home, absent notice and an opportunity to be heard. A tenant who cannot present defenses to an arrest or allegations of drug activity has no meaningful opportunity to be heard. Second, the provision would jeopardize a tenant's right against self-incrimination guaranteed by the Fifth Amendment. A tenant would face the dilemma of waiving his Fifth Amendment right and testifying to preserve his shelter, or asserting the right and effectively losing the opportunity to defend the eviction. Third, the proposed law would improperly remove a court's decisionmaking on a person's guilt or innocence. This potentially violates a basic constitutional premise that only courts, not legislatures, have the power to adjudicate individual cases. Article I, Section 9, U.S. Constitution. Finally, a mandatory loss of shelter for a drug arrest may be viewed as excessive punishment in violation of the Eighth Amendment.

The above legal assessment is by no means exhaustive, and other issues would likely arise if litigation is brought. ALSC would agree with the assessment of Jack Chenoweth, legal consultant with the Legislative Affairs Agency, that the provision invites a court challenge.

### C. COMPARISON TO PARALLEL WASHINGTON STATUTE

In your letter requesting comment, you indicate that the anti-drug provisions of SB 35 are inspired by the approach taken by the State of Washington and City of Seattle. ALSC thinks it is important to note that Washington law does not go so far as to permit eviction based on a drug *arrest* alone. To the contrary, the parallel provision of the Washington code provides:

Each tenant shall...:

Not engage in drug-related activity at the rental premises, or allow a subtenant, sublessee, resident, or anyone else to engage in drug-related activity at the rental premises with the knowledge or consent of the tenant. "*Drug-related activity*" means that activity which

*constitutes a violation of chapter 69.41, 69.50, or 69.52  
RCW*

RCW 59.18.130. Exhibit M. (The cited provisions are criminal statutes pertaining to prescription drugs, controlled substances, and imitation controlled substances. Exhibit N.)

Because the Washington code makes the very important distinction between a drug *arrest* and drug *activity*, which must be proven, it is far less objectionable. Washington's approach may also alleviate some of the constitutional questions the proposed bill raises, because it would permit a tenant to contest the allegations of drug activity and would permit a court to make the ultimate decision on whether the allegations are substantiated.

For the above reasons, ALSC submits that current landlord-tenant laws are adequate to protect the interests of landlords, tenants, and the public with respect to both rent payment periods and drug-related activities of tenants. Accordingly, we urge you to reconsider your sponsorship of the bill, and recommend against its passage.

Thank you very much again for the opportunity to comment.

Sincerely yours,

ALASKA LEGAL SERVICES CORPORATION



Barbara J. Hood  
Staff Attorney & Supervisor  
Public Entitlements Unit, Anchorage



Robert K. Hickerson  
Executive Director

Enclosures

Doctor's orders

UAA hockey player returns SPORTS C1

Fund-raising woes

Abuse counselors latest to close METRO B1

# The Anchorage Times

Alaska's Best Newspaper

THURSDAY

December 20, 1990

25¢

VOLUME 76 NO. 364

## High rents drive poor onto street

### Municipal population surges; agents see worsening market

By JAY STANGE

TIMES BUSINESS WRITER

As rents have climbed in recent months, more low-income Anchorage residents are being squeezed out of the market.

Yet real estate experts say it will take 18 months to 2½ years for the city's rental market to improve, and conditions are expected to get a lot worse before they get better.

Emboldened by an improving Anchorage economy and a surge in the city's population, landlords and property managers have raised rents during the past year as much as 20 percent, especially in the city's low-income apartment complexes, local surveys show.

Ken Kincaid, a real estate appraiser with Sherrill & Rely in Anchorage, said the housing market tightens when vacancy rates fall below 8 percent.

Apartment vacancies in Anchorage had decreased to 5.2 percent on July 1, 1990, which is the most recent figure available, according to Sue Flann, director of the Anchorage planning office. That figure compared with vacancy rates of 20.1



'The marketplace does not take care of the low-income people.'

• Cynthia Parker, housing service director

EXHIBIT D  
PAGE 1 OF 2

# Housing

Continued from page A1

Kincaid said apartment vacancy rates in middle- and upper-income complexes of more than 20 units are now ranging from 2 percent to 3 percent.

As recently as 18 months ago, Kincaid reported at least 90 percent of the 60 apartment complexes he regularly surveys were paying for electricity. By comparison, his most recent survey showed 90 percent now ask tenants to pay their own electric bills.

"A majority of my complexes have gone away from losses," he said. "Seventy-five to 80 percent are now month to month because of the rental market's volatility."

Not everyone sees a housing shortage in the current market.

"I don't believe there is a housing crunch now," said James Kuntz of Marston Real Estate. "Occupancy is good right now, about 95 percent in apartment complexes. But there are columns and columns of condos and single family homes for rent in the paper."

Moreover, demand in Decem-



Source: Anchorage State Housing Authority

Times chart by WY TUTTLE

ber has slowed, Kuntz said. "Rents can only go up to a certain point before the renter will go into the condo rental market," he said. "I don't see a shortage of housing (as long as the condos are there to be absorbed)."

But Kuntz agreed the low end of the rental market will become more prohibitive for low-income families and increased social service assistance will be needed.

Construction of multifamily units and apartment complexes, which will ease the tight rental market for low-income families in town, is not expected to begin until rents for a two-bedroom apartment, now going for about \$700 per month, climb into the

range of \$800 to \$900, housing experts say.

That is 18 to 24 months away, said Corrie Yoshimura, owner of Fortane Properties.

People who can afford to pay middle- and upper-range rents can afford to buy homes and condominiums.

"The marketplace does not take care of the low-income people," said Cynthia Parker, executive director of Anchorage Neighborhood Housing Service.

Anchorage homeless shelters are bulging with record numbers of people. A mayor's task force of industry and government housing experts met recently to look for solutions.

One problem they identified is Section 8 rent subsidies from the Alaska State Housing Authority were going unused because they were too low to keep pace with increasing rents.

Landlords who flocked to obtain those Fair Market Rent certificates during the recession are able to rent to non-subsidized tenants today, Parker said.

Landlords still are taking losses as they have since 1987, when rents dropped off drastically at the end of the oil boom, said Jack Vandenberg of the Jack White Co.

Vandenberg, who is also a landlord, raised rents \$100 recently and still has 100 percent occupancy. Though apartments on rental property have come up 40 percent to 60 percent, they are recovering slower than single family homes, realtors say.

Others say the housing crunch is most apparent among the poor.

Forced out of their homes by higher rents, homeless residents have grown in the city at an alarming rate in recent months, Parker said.

The service will open 110 units from the Village off Reka Drive for occupancy next spring. Many other condo complexes will be renovated and rented to low-income tenants who will make pay-

ments towards buying a Mutual Housing Program.

"The housing stock we eliminated has been on the end," Kuntz said. "We are later commensality for it, but we need to step up social aid."

According to the Municipality of Anchorage's 1980 survey, 5,300 families, Anchorage population of 220,185, or 18,000 fewer people than the had at its peak of 248,283 in 1970.

"Let the city survey showed there are 30,277 housing units in Anchorage, or 400 units than in 1975, when there were 29,874 housing units available.

However, an influx of droves of laid off workers the Lower 48 and British Columbia — particularly in the oil industry — is absorbing rental stock rapidly.

A change in property ownership also has contributed to the problem, Kincaid said. Then 63 percent of Anchorage residents owned their homes in 1963. That figure fell to 58 percent in 1988 and to 57 percent year.

With the economy improving over the past year, people have been able to upgrade their living arrangements, Kincaid

EXHIBIT D  
PAGE 2 OF 2

# METRO

TUESDAY

SECTION B Dec. 11, 1990

## Homeless population increases

### Solutions elude task force

By LARRY CAMPBELL  
Daily News reporter

The Anchorage mayor's task force on the homeless has decided that local social service groups are right — the homeless problem in Anchorage is worse this year than last. Still, the report it released Monday raised more questions than it answered.

The group's biggest recommendation is to gather more information. With just a month to do its work, the task force couldn't find answers to such questions as how large particular groups of homeless people are or exactly what kinds of services they will need.

"The problem is worse, but it's much more complicated than that," said task force member Wayne Mabry, operations manager for Alaska Telecom Inc. "That's the reason we suggested getting more information."

Mayor Tom Fink formed the task force last month to delve into complaints from social service agencies that the numbers of homeless in Anchorage had reached crisis proportions.

The evidence it found was heavy with anecdotal examples and much lighter in hard numbers. Still, the group's report claims 4,200 people are or will be homeless this year. Families with children seem to be the fastest-growing group of homeless, judging by increases in the number of women and children who stayed at the Clare House shelter, operated by Catholic Social Services.

## TASK FORCE: Anchorage homeless population increase

Continued from Page B-1

Some agencies show decreases in the number of homeless served, but claim they've been forced to cut back on services either because of state-funding cuts or because they couldn't handle the demand to begin with.

While specific numbers of homeless and their needs are lacking, the task force nonetheless also recommended new efforts. Volunteer programs should be expanded. More state and federal dollars should be piled loose. Private developers could be encouraged to build more low-income housing, primarily through offering federal or local tax breaks as incentives. The group suggested

the city take lead roles in coordinating many of these efforts, but didn't recommend spending any more local revenue.

Also unclear was why Anchorage has more homeless now. Part of the problem lies in rising rents and federal rent subsidies that haven't kept up. Alaska State Housing Authority, which manages federal low-income housing programs, has asked for a rent credit increase from the Department of Housing and Urban Development, but that may not come until next spring, said ASHA executive director Ray Price.

Currently, 1,872 families are on the rent subsidy waiting list for Anchorage. Price said. In January, 1,298 families were on the waiting list. Statewide, 2,326 families are waiting for federal rent assistance. Whether anything actually gets done remains to be seen. But Jim Calderola,

Catholic Social Services director, is glad that at some of the prominent conservative local businessmen who served on the force became convinced the problem.

"In the non-profit, we're seeing these kind problems and talking them all the time," Calderola said. "Once in a while I got to pull in a suit, one of prominence in the community to get the public's attention. This is seal of approval."

Please see Page B-3, TASK FORCE

EXHIBIT E  
PAGE 1 OF 1

# Low-income renters fall out bottom of rising housing market

By TODD DENSMAN  
Times Writer

Landlords hoping to cash in on Anchorage's recuperating housing market always found a way to avoid renting to Jewell Farris.

For nearly four months, the 65-year-old grandmother scoured the Anchorage Bow for a place big enough for herself, her unemployed daughter and her grand-

daughter. She gets by on a \$560 social security check and a \$684 state housing subsidy.

"Don't call us, we'll call you," was the response Farris usually got from potential landlords when she inquired. Several simply hung up when they learned she had only the \$684 subsidy to pay for a place large enough for three adults.

"If you tell me a place you can crawl into for that amount of money, I'll eat it," Farris said. She finally did find an affordable home with help from Anchorage social workers.

But with property values on the rise again after a three-year lull, record numbers of low-income renters like Farris are being pushed into homeless shel-

ters as Anchorage property owners realize they can charge more.

That was the conclusion of a special task force Mayor Tom Fink appointed last month to find out why Anchorage's homeless shelters are overflowing.

A report quickly compiled over the last month by Fink's 12-member task force and released

Monday concluded, "The societal causes of homelessness are complex, ranging from the disintegration of the traditional family structure to failures in this country's care of the mentally ill. ... It is the loss of affordable housing, though, that immediately precipitates homelessness."

The report noted Anchorage's

emergency homeless facilities — like Brother Francis Shelter, McKinnell House and Clare House — have experienced alarming increases in clientele over the last year.

Families and single members who a year ago could afford low-income housing now are the groups whose numbers at shelters are rising most sharply. See Housing, back page

## Housing

Continued from page A-1

ters have increased the most, the report said. Blacks and Alaska Natives make up the remainder, the report said. Many were plagued by unemployment, mental illness, alcoholism and drug abuse.

The Brother Francis Shelter, with a 35 percent increase in clients this year over last year, next week will move 30 homeless women onto the floor of the neighboring Bean's Cafe, an eatery, to make more room.

So swiftly has the influx of homeless families grown that McKinnell House was forced to convert two nine-bed dormitories into three family rooms, the report said.

Clare House, an emergency shelter for women and children, this year saw a 29.2 percent increase in the numbers of people seeking shelter over the same time last year.

"I knew people who worked as day labor used to be able to get an apartment for \$300 with their rental assistance. Now, you won't find one for less than \$550," said Bob Eaton, director of Brother Francis Shelter. "People are coming back to the shelter now."

Eaton and the report blame Anchorage's rebounding economy and greedy landlords, who



Jewell Farris, 65, takes a momentary rest from moving into a new apartment. It took four months of searching in Anchorage's newly tightening rental market to find a spot to match her fixed income.

just one year ago were grateful to rent to someone with a marginal income.

"It is estimated that about 30 percent of the homeless population seen at the Brother Francis Shelter could afford to pay for low-cost housing if it were available," the report said.

In 1987, Alaska's economy and real estate market collapsed when world oil prices took a

sharp dive. About 30,000 people left the state over the next two years and vacancies soared.

But according to a quarterly demographics survey done by the Anchorage Economic Development and Planning Department, Anchorage had grown from 221,870 in December 1989 to 230,185 by July 1990.

During the same time, apartment vacancies fell from 8.4 per-

cent to 5.2 percent, and vacant housing units dropped from 14.6 percent to 9.7 percent, the survey said.

"They were once willing to take them, and now they don't have to," said Joyce Lee, emergency services coordinator for the city Health and Human Services Department, referring to landlords.

"It takes a long time to get

(accepted into the state rental subsidy program) and it takes a long time to find a place to live."

Mark Korting, owner of RE-MAX Properties Inc., a major real estate brokerage in Anchorage, said the recent recovery has emboldened landlords to demand more money and to screen more carefully.

"I don't think that anyone is not renting to disadvantaged people just because they are disadvantaged. It's probably just a monetary situation," Korting said.

The recent demolition or boarding up of hundreds of low-cost housing units, such as Willow Park and Hollywood Vista, also has exacerbated the current crisis, the report said.

The task force's report, sent to Fink and the council Monday, recommended solutions that will be presented to the Anchorage Assembly next week.

The task force recommended the city take the following course of action over the next 60 days:

- Waive some fire and safety standards so emergency housing can be provided in older buildings when needed.

- Encourage (top federal) Housing and Urban Development officials in Washington, D.C., to raise the ceiling on individual housing subsidies.

- Set up a 24-hour hotline where homeless people can get information about available housing.

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PAGE 1 OF 1

MAY 1991

# Rents rise, vacancies vanish as city's population surges

Apartment hunters face tightest market since boom days

By BRUCE MELZER  
Daily News reporter

APARTMENT VACANCIES		
Mid-year rates — large apartment complexes		
Year	Overall	Mid-cost apartments*
1981	8.2%	3.6%
1982	3.2%	1.1%
1983	6.5%	9.9%
1984	12.3%	13.3%
1985	14.5%	11.0%
1986	22.0%	19.3%
1987	26.1%	22.4%
1988	17.1%	13.0%
1989	8.7%	7.3%
1990	5.2%	2.7%

A population surge in Anchorage, where there is little new construction to house the arrivals, has been pushing up rents and shrinking the number of empty apartments.

City officials estimate Anchorage has grown by 8,000 people in the last year. Anchorage's housing stock is filling up. Vacancy rates for all types of housing have dropped to just under 10 percent this year, the lowest level since the mid-1980s, according to the city's annual housing survey.

Apartment hunters are having a tough time finding a place to live. Vacancy rates for medium- and high-cost apartments dwindled to 2.5 percent by June, according to surveys of larger apartment buildings pub-

Source: Shores & Avey  
\* Mid-cost defined as \$325-\$480/mo. for 1 bedroom, \$425-\$550/mo. for 2 bedrooms and \$500-\$700/mo. for 3 bedroom apartments, June 1990 prices

Please see Back Page. **RENTERS**

EXHIBIT 6

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BRIM HALL / Anchorage Daily News

Christine Pyle and her daughter, Sara: Finding an affordable apartment wasn't easy.

## RENTERS: It's a landlord's market out there

Continued from Page A-1

lished by Ken Kincaid of the real estate appraisal firm Shorett & Riely.

That's the tightest market for those units since the early 1920s, when the state was flush with oil money and Anchorage was starting to boom.

The vacancy rates for lower-priced apartments hovered around 11 percent in June. But that number is smaller now, said James Kuntz, manager of Marston Properties.

Christine Pyle found that out when she went shopping for a three-bedroom apartment. As a university student and single parent with a son and daughter, she could afford no more than \$590 a month, including utilities.

She spent two weeks in August with newspaper want ads and the telephone.

"It seemed like the affordable places were gone before the ink was dry on the paper," she said.

Her advice to apartment seekers: "Get on the phone the first thing when the paper comes out. If you wait 'til the end of the day, they'll be gone."

Pyle finally found an apartment to match her needs and budget.

The first week of the month is the best time to look for a rental, suggested Jody Hoffmann, whose Hoffmann Management Co. handles some of Anchorage's larger apartment complexes. Renters wanting to move out usually give their 30-day notice at the start of a month.

Renters are paying more, too.

"I think it would be safe to say that rents have increased on the order of 15 percent in the last year," Kincaid said. On top of that, many landlords who once paid the utilities are now shifting the cost of gas and electricity to renters, he said.

Although some firms and many individual landlords are slow to raise rents, some large property management firms are constantly probing the marketplace, seeking to push up rents.

Hoffmann said her company, which manages more than 1,000 units, has raised rents by as much as 25 percent over the past year.

Rents rose \$25 to \$50 every three months, she said.

Her firm tries to keep the vacancy rate at 5 percent. If apartments aren't turning over, rents may be too low, Hoffmann said. And just because empty units are filling up quickly, doesn't mean it is time to stop advertising.

"If we advertise and we get a lot of calls, then we know we have an opportunity to raise rents," she said.

Despite this year's increases, rents still aren't up to the peak reached in the mid-1980s. And they certainly aren't to the point where developers can justify building new multifamily housing, property managers agree.

Permits for 373 new single-family homes have been issued since January — more than double the number of permits last year — but not enough to have a big impact on the rental market, Fison said.

The real estate crash of the late 1980s took thousands of homes, condos and mobile homes temporarily off the market while they were locked up in foreclosure proceedings.

More than 2,000 housing units are gone for good, said Sue Fison of Anchorage's Planning and Economic Development Department. Hundreds of mobile homes were shipped out of town. Bulldozers leveled hundreds more along with some low-quality homes and apartments during the Alaska recession.

From 1983 to 1988, an estimated 30,000 people left Anchorage, according to Fison's department. Since then, as the economy began to improve, the population has rebounded by about 11,000, to 270,000 residents.

Not all management companies are pushing the edge of the market right now. Kuntz of Marston Properties said prices that have risen over the year have stabilized, and his firm won't start looking again at rent hikes until spring.

Mel Main of Nova Property Management agrees.

"We raised a few of them this summer. We're not raising them in the winter. In the winter we just try to keep them filled."

EXHIBIT G

PAGE 2 OF 2

# Housing

Continued from page A-1

subsequent rent payment varies according to family income. At the end of July, 373 applicants were on the waiting list for the Low Rent Program.

The Section 8 Program allows applicants to choose the housing they want to live in by giving them certificates or vouchers that say the authority will pay half the rent. More than 1,400 applicants are waiting for Section 8 assistance.

Despite having 487 Low Rent Program units and almost 1,400 people using certificates in Anchorage, the demand for housing assistance is still greater than the supply, Ward said.

"When someone comes in to apply, we tell them there is a six to 12 month wait, depending on the availability of the certificates and vouchers HUD sends us," he said. "The people get what HUD gives us."

When the waiting list gets out of hand — like two years ago when the waiting period took one full year — the list is closed until the number of applicants drops. Ward said.

"Two years ago we got down in the 500 range before we opened the list up again," he said.

The application process can be lengthy, he said. A person first must file an application at the ASHA's client service center at 609 E. 19th Ave. The application is reviewed to see if the person qualifies for assistance.

For a one-bedroom apartment, an applicant's total family income must not exceed \$17,450. For a two-bedroom, the limit is \$18,800. The three-bedroom limit is \$22,400 and the four-bedroom ceiling is \$24,800.

"That may sound high enough for anyone to qualify, but statistics show that the average family in Anchorage makes at least \$9,000," authority spokeswoman Sherrie Simmons said.

If an applicant meets qualifications, they choose either the Low Rent or Section 8 program. If they choose Low Rent, they are then put on a waiting list depending on how many bedrooms they need for their housing. Applicants wait on a first-come, first-served basis.

If the applicant chooses Section 8, they seek out their own apartment and ask their potential landlords if they will accept the ASHA certificates in addition to their own rent payments.

That is not an easy task, Wilcher said. It took her almost two months to find a landlord who would accept her certificate.

"There was one in Mountain View that accepted the certificate but I didn't want to live there. That's a drug area," she said.

Nick Britzanski, a 45-year-old disabled veteran, said it took him a long time to find someone who would lease him an apartment with a certificate when he first sought assistance in 1990.

I used to live in the Brother Francis shelter so I went that way about the waiting," he said. "I live OK now on Richardson

## Anchorage area low-rent housing

Here is a list of some of the low-rent and low-income housing in Anchorage.

Paragon Park, 1122 E. 19th Ave., 273-4887.  
Park View Manor, 408 Kartul St., 274-1104.  
Louise Manor, 130 Hillerman Drive, 274-2811.  
Chugach View, (elderly/handicapped housing), 1300 E. 17th Ave., 273-8817.  
Chugach Manor, (elderly/handicapped housing), 1203 E. 18th Ave., 274-8714.

### Private low-rent housing

Cook Inn Housing Authority, 274-8822.  
Jewel Lake Villa, 243-0718.  
KBL Apartments, 274-0797.  
Mary Conrad Center, 208-2840.  
Robert Rude Center, 238-2111.  
Tyeo Apartments, 271-1911.

### Emergency housing

Anchorage Care Center, 278-3343.  
AWAIC Shelter, 274-4581.  
Brother Francis Shelter, 277-1731.  
Catholic Social Services, 277-2584.  
City Emergency, 264-6746.  
Clare House, 263-4843.  
McConnell Residence, 278-1508 or 273-2841.  
Senior Citizens, 264-4723.  
Rescue Mission, 277-3022.

priced to help applicants were having difficulty locating available housing.

"Our limits aren't really comparable to rents landlords are charging in the area," he said.

HUD has fair market price lists in each city that limit how expensive an applicant's rent can be, Ward said.

For a one-bedroom apartment, the fair market price is \$43. For two bedrooms, the limit is \$57. Three bedrooms top at \$86 and four bedroom apartments can be no higher than \$125, he said.

Ward says that with the average price of Anchorage housing and HUD's fair market price limits appear unfair.

One bedroom apartments usually run between \$50 and \$55. Two bedrooms usually cost around \$60. Three bedrooms go for between \$75 and \$80 and four-bedroom places cost an average of \$90.

"We've been trying to get HUD to raise their fair market limits and it looks like they may be changing them soon but I wouldn't know when," he said.

Regardless of how high the difference in prices are, thousands of people still wait for housing assistance, Wilcher said.

"I was lucky. I could afford to stay in the apartment I'm in now until the other place is available," she said. "I'm just anxious to move, but others need emergency housing."

ANCH.  
TIMES  
8/20/90



Jennifer Wilcher, 5, and her mother, Jackie, have been waiting nearly a year for financial assistance from the Alaska State Housing Authority so they can move into a larger apartment.

# Housing Authority has long waiting list

## Woman applied nearly a year ago for unit

By JEFF BUCKER

ANCHORAGE — Jennifer Wilcher knows all about waiting lists.

When she applied to Synchro for financial assistance from the Alaska State Housing Authority, she was told it would take six to eight months before they could help her and her daughter move to a larger apartment.

Nearly a year later, Wilcher still lives in the same small one-bedroom apartment on Madison Street. But she and her daughter are ready to move to a new place near Landmark Street and Hoffmann Road but the rent is too high.

She was approved for a state apartment in June but had to wait for an inspector to say her two-bedroom apartment is suitable.

She said she has been waiting for a unit for nearly a year.

She said she has been waiting for a unit for nearly a year.

condition.

"I've got all those damn forms piled up. They better get me it's suitable," she said. "We're cramped up in the other place like a sardine in a can. You can't even breathe in there."

Wilcher tried to move in waiting for a place to call home. Another by application through HUD and HUD's office has almost 2,000 people on the waiting list for two separate assistance programs. ASHA is funded by the Department of Housing and Urban Development.

The first program, called the Low Rent Program, offers housing to ASHA-owned properties. The tenant then pays the authority a security deposit and the first month's rent. The amount of the security deposit is set by the

EXHIBIT H  
PAGE 1 OF 1

EMERGENCY SERVICES PROGRAM

	TOTAL DIRECT SERVICE	ANCHORAGE RESIDENCE	RURAL ALASKANS	OUT OF STATE	BUS TOKENS	MEN	WOMEN	CHILD
JUL 89	67	43	5	19	27	15	28	24
JUL 90	320	268	19	33	65	59	96	165
JUG 89	85	69	8	8	2	24	32	29
AUG 90	268	217	14	37	126	53	69	146
SRP 89	281	189	40	52	152	63	108	110
SRP 90	500	335	90	75	130	100	132	268

TOTAL CLIENTS FOR 1989: 443      TOTAL MEN 1989: 102      TOTAL WOMEN 1989: 168      TOTAL CHILD 1989: 163  
 1990: 1088      1990: 212      1990: 297      1990: 579

We have 462 requests for food through the Interfaith Clearinghouse in the three month period, for 1989.

We have 49 requests for clothing during the same time period.

We have not kept accurate stats on the request for food and clothing since the Clearinghouse closed, however, between the three of us we figured we were getting approximately 25 calls a day. This would total 1500 for the three month period, a total of 1,038 more than last years for the same period.

XHSIT I  
 PAGE 1 OF 1

Anchorage Daily News Sunday, February 24, 1991

### **Housing needs of poor addressed**

JUNEAU — A trust fund to meet housing needs of the poor would be created through surplus money from the Alaska Housing Finance Corp. under a measure introduced in the House. House Bill 152, sponsored by Rep. Kay Brown, D-Anchorage, also would consolidate the boards of the Alaska Housing Finance Corp. and the Alaska State Housing Authority into a new Alaska Housing Commission. "Housing programs in Alaska are spread among 13 different state agencies, offices and divisions. They are designed with little quantitative information regarding real needs," Brown said in a news release. A companion bill, HB153, would allocate \$100 million from corporation revenues to the trust fund, whose earnings would be used to finance low- and middle-income housing projects.

EXHIBIT

J

PAGE

1

OF

1

# AWFUL DETAINER PROCEDURES AND TIME CHART

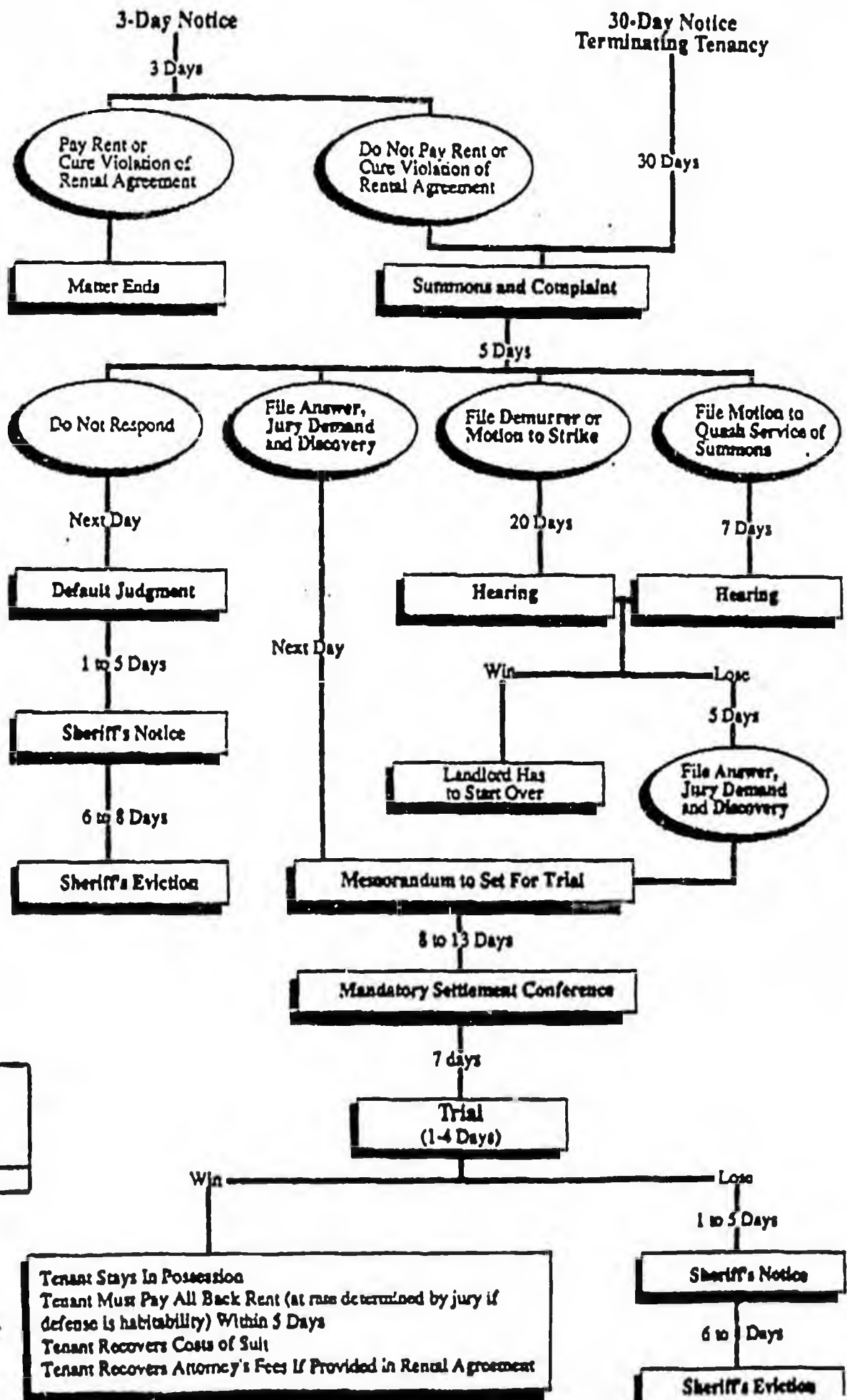


EXHIBIT   K    
PAGE   1   OF   1

1989		Clients Served
Bus Tokens July-Dec: \$351.00		
July:	\$1,517.90	67
Aug:	\$ 913.24	85
Sept:	\$5,253.46	281
Oct.:	\$3,287.00	0
Nov.:	\$ 670.43	233
Dec.:	\$1,774.78	154
1-90	\$2,363.11	163
<hr/>		<hr/>
	\$15,805.92	983

1990		Clients Served
Bus Tokens July-Dec: \$450.00		
July:	\$2,609.64	393
Aug.:	\$2,353.63	411
Sept:	\$1,564.75	463
Oct.:	\$2,891.59	372
Nov.:	\$3,178.58	250
Dec.:	\$2,003.36	311
1-91	<del>\$2,355.95 (1 month)</del> 3212.15	<del>207</del> 478
<hr/>		<hr/>
	<del>\$16,957.50</del>	<del>-2,407</del>
	\$ 17,813.70	\$2,678

$\$ 2007.78$   
 (Difference:  $\$1151.58$ )  
 people: ~~1,424~~ 1695  
 $\frac{2}{3}$   
 Over two and one-half times as many people in the increase.  
 overall Increase =

Difference Money pd out = 2007.78  
 Difference out of people served = 1695

1/31/91 Budget \$ 9,466.50  
 Balance  
 Divided by 5 months  
 left in FY = \$ 1,893.31  
 Available per month

We really should have an increase in our budget.  
~~increase~~ <sup>with it</sup> of increase of applicants and ~~the same amount of~~  
 no change in money, many people are not  
 being helped.

B6 Monday, December 17, 1990, The Anchorage Times

## ACLU assails tenant evictions in drug arrests

By PAMELA STOCK  
TIMES WRITER

A local civil rights attorney said a proposed bill that would allow landlords the right to evict arrested drug dealers penalizes the innocent before they are proven guilty.

"It's a politically easy thing to do, to say 'let's go after the drug dealers.' I think it's a fallacy," said Jamie Bollenbach, director of the American Civil Liberties Union's Anchorage office.

Bollenbach said he questions the propriety of evicting tenants based on arrests, instead of convictions, though he said the bill did not necessarily interfere with constitutional rights. Sen. Pat Pourchot, D-Anchorage, is drafting the bill to help give landlords more authority.

"We're penalizing people before they're found guilty," Bollenbach said. He also said the proposed bill may encourage landlords to evict, and may contribute to an al-

"We're penalizing people before they're found guilty."  
— Jamie Bollenbach,  
Alaska ACLU

See Eviction, back page

## Eviction

Continued from page B1

ready acute homelessness problem in Anchorage.

But some apartment owners said they have no legal recourse to control tenants in their buildings who deal drugs and attract crime.

Rex Plunkett, a local landlord, said changes in the current bill might benefit tenants with a troubled past. Apartment owners may be more likely to rent if they know they will have an easier time evicting.

Current laws say landlords cannot evict a tenant arrested for or suspected of trafficking drugs or illegally selling alcohol unless the tenant breaks a lease. If the tenant continues to pay rent on time, maintains a lease agreement and is not arrested on felony charges, the landlord cannot evict.

"I'm far more likely to take a risk and rent when I know all I stand to lose is two week's rent, and not several months," Plunkett said.

Plunkett said he lost at least four months' rent due to a tenant who he said was selling drugs from a Russian Jack apartment.

Pourchot's proposed bill gives the landlord the option to immediately evict a tenant who has been arrested for illegally selling drugs or alcohol, even if the tenant is a timely rent payer.

"The cases where you would use it in reality is if there is serious drug trafficking, and these cases aren't built lightly," Pourchot said.

"We're talking about communities where there are 40 people coming to the door every day," he said.

But most leases already have provisions prohibiting arrests

said Barbara Hood, supervisor for public entitlements at Alaska Legal Services. Revisions to current laws may not be necessary, she said.

Hood also questioned the need to shorten eviction notice periods at a time when the real estate market is tightening and more tenants are seeking help from the legal service agency.

Pourchot proposes changing the notice period from 10 days to five.

"The five-day notice would make it much more difficult for people using the programs that are established to help them, but can't act that quickly," Hood said.

Pourchot looked to the laws of Washington state, thought to be tough on drug dealers, to inspire his own legislation.

For example, Washington landlords may evict tenants involved in "unlawful activities based on the landlord's own observation," said Lorraine Lewis, Administrator for the Washington Attorney General's Office.

When asked if there were complaints of tenants who felt they were unreasonably accused and evicted, Lewis said there is no regulatory agency to keep track of complaints.

Pourchot, who is a landlord himself, said the Alaska bill stipulates an arrest because he did not want landlords to be acting as police officers.

"We don't want to substitute good police work for landlord's observations," Pourchot said.

Pourchot said since he started working on the bill he has talked to many Anchorage landlords — many who own only one or two buildings and are concerned about their communities, as well as their rights.

EXHIBIT L  
PAGE 1 OF 1

*W. 168*  
REVISED  
CODE OF WASHINGTON  
ANNOTATED



Titles 58 to 61

EXHIBIT	<i>M</i>
PAGE	<i>1</i> OF <i>3</i>

RESIDENTIAL LANDLORD-TENANT ACT

59.18.130

RCW 59.18.070, and that the tenant should not remain in the dwelling unit in its defective condition, the court or arbitrator may authorize the termination of the tenancy: *Provided*, That the court or arbitrator shall not a reasonable time for the tenant to vacate the premises.

Enacted by Laws 1973, 1st Ex.Sess., ch. 207, § 12.

Library References

Landlord and Tenant ¶106.  
WESTLAW Topic No. 233.

C.J.S. Landlord and Tenant §§ 107,  
116, 118.

59.18.130. Duties of tenant

Each tenant shall pay the rental amount at such times and in such amounts as provided for in the rental agreement or as otherwise provided by law and comply with all obligations imposed upon tenants by applicable provisions of all municipal, county, and state codes, statutes, ordinances, and regulations, and in addition shall:

(1) Keep that part of the premises which he occupies and uses as clean and sanitary as the conditions of the premises permit;

(2) Properly dispose from his dwelling unit all rubbish, garbage, and other organic or flammable waste, in a clean and sanitary manner at reasonable and regular intervals, and assume all costs of extermination and fumigation for infestation caused by the tenant;

(3) Properly use and operate all electrical, gas, heating, plumbing and other fixtures and appliances supplied by the landlord;

(4) Not intentionally or negligently destroy, deface, damage, impair, or remove any part of the structure or dwelling, with the appurtenances thereto, including the facilities, equipment, furniture, furnishings, and appliances, or permit any member of his family, invitee, licensee, or any person acting under his control to do so. Violations may be prosecuted under chapter 9A.48 RCW if the destruction is intentional and malicious;

(5) Not permit a nuisance or common waste;

(6) Not engage in drug-related activity at the rental premises, or allow a subtenant, sublessee, resident, or anyone else to engage in drug-related activity at the rental premises with the knowledge or consent of the tenant. "Drug-related activity" means that activity which constitutes a violation of chapter 69.41, 69.50, or 69.52 RCW; and

(7) Upon termination and vacation, restore the premises to their initial condition except for reasonable wear and tear or conditions caused by failure of the landlord to comply ~~with his obligations~~

EXHIBIT M  
PAGE 2 OF 3

under this chapter: *Provided*, That the tenant shall not be charged for normal cleaning if he has paid a nonrefundable cleaning fee. Enacted by Laws 1973, 1st Ex.Sess., ch. 207, § 13. Amended by Laws 1983, ch. 264, § 3; Laws 1988, ch. 150, § 2.

#### Historical and Statutory Notes

Laws 1963, ch. 209, § 2, in subsec. (4), inserted the provision relating to prosecution of violations under chapter 9A 48.

Laws 1988, ch. 150, § 2, inserted subsec. (5); and renumbered former subsec. (6) as subd. (7).

**Legislative findings**—Laws 1988, ch. 150: "The legislature finds that the illegal use, sale, and manufacture of drugs and other drug-related activities is a state-wide problem. Innocent persons, especially children, who come into contact with illegal drug-related activity within their own neighborhoods are seriously and adversely affected. Rental property is damaged and devalued by drug activities. The legislature further finds that a rapid and efficient response is necessary to: (1) Lessen the occur-

rence of drug-related enterprises; (2) reduce the drug use and trafficking problems within this state; and (3) reduce the damage caused to persons and property by drug activity. The legislature finds that it is beneficial to rental property owners and to the public to permit landlords to quickly and efficiently evict persons who engage in drug-related activities at rented premises." [Laws 1988, ch. 150, § 1.]

**Severability**—Laws 1988, ch. 150: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [Laws 1988, ch. 150, § 15.]

#### Law Review Commentaries

Landlord-tenant; maintenance and repairs required by legislative acts. 49 Wash.L.Rev. 363 (1974).

Statutory redefinition of rights and duties of landlords and tenants; tenant duties. 9 Gonzaga L.Rev. 302.

Tenants' mode of use; waste. 49 Wash.L.Rev. 335 (1974).

#### Library References

Landlord and Tenant ¶134, 144, 181 to 183.  
WESTLAW Topic No. 233.

C.J.S. Landlord and Tenant §§ 316, 326 et seq., 462 to 470.

#### Notes of Decisions

Carpeting 1

##### 1. Carpeting

Finding that carpet in apartment was substantially destroyed and that it was

reasonable and proper to replace it was not error in action by landlord against former tenant, particularly where depreciation factor was considered in determining damages awarded to landlord. *James S. Black & Co. v. Charron* (1978) 22 Wash.App. 11, 587 P.2d 196.

#### 59.18.140. Reasonable obligations or restrictions—Tenant's duty to conform

The tenant shall conform to all reasonable obligations or restrictions, whether denominated by the landlord as rules, rental agree-

OFFICE OF THE ATTORNEY GENERAL  
STATE OF WASHINGTON  
ANALYST



Titles 68 to 69

EXHIBIT *N*  
PAGE *1* OF *4*

## CHAPTER 69.41

### LEGEND DRUGS—PRESCRIPTION DRUGS

#### Section

- 69.41.010. Definitions.
- 69.41.020. Prohibited acts—Information not privileged communication.
- 69.41.030. Sale, delivery or possession of legend drug without prescription or order prohibited—Exceptions.
- 69.41.040. Prescription requirements.
- 69.41.050. Labeling requirements.
- 69.41.060. Search and seizure.
- 69.41.070. Penalties.
- 69.41.075. Rules—Availability of lists of drugs.

#### SUBSTITUTION OF PRESCRIPTION DRUGS

- 69.41.100. Legislative recognition and declaration.
- 69.41.110. Definitions.
- 69.41.120. Prescriptions to contain instruction as to whether or not a therapeutically equivalent generic drug may be substituted—Form—Contents—Procedure.
- 69.41.130. Savings in price to be passed on to purchaser.
- 69.41.140. Minimum manufacturing standards and practices.
- 69.41.150. Liability of practitioner, pharmacist.
- 69.41.160. Pharmacy signs as to substitution for prescribed drugs.
- 69.41.170. Coercion of pharmacist prohibited—Penalty.
- 69.41.180. Rules.

#### IDENTIFICATION OF LEGEND DRUGS—MARKING

- 69.41.200. Requirements for identification of legend drugs—Marking.
- 69.41.210. Definitions.
- 69.41.220. Published lists of drug imprints—Requirements for.
- 69.41.230. Drugs in violation are contraband.
- 69.41.240. Rules—Labeling and marking.
- 69.41.250. Exemptions.
- 69.41.260. Effective date.
- 69.41.900. Severability—1979 c 110.

#### Cross References

- Police powers to enforce this chapter, see § 18.64.009.
- Public and private schools, administration of oral medication and safeguarding of legend drugs, see § 28A.21.160.
- Unprofessional conduct, possession, distribution, use, or prescription for use of legend drugs in any way other than for therapeutic purposes, see § 16.57.170.

878

EXHIBIT N

PAGE 2 OF 4

CHAPTER 69.50  
UNIFORM CONTROLLED SUBSTANCES ACT  
ARTICLE I—DEFINITIONS

- Section  
69.50.101. Definitions.  
69.50.102. Drug paraphernalia—Definitions.

ARTICLE II—STANDARDS AND SCHEDULES

- 69.50.201. Authority to control.  
69.50.202. Nomenclature.  
69.50.203. Schedule I tests.  
69.50.204. Schedule I.  
69.50.205. Schedule II tests.  
69.50.206. Schedule II.  
69.50.207. Schedule III tests.  
69.50.208. Schedule III.  
69.50.209. Schedule IV tests.  
69.50.210. Schedule IV.  
69.50.211. Schedule V tests.  
69.50.212. Schedule V.  
69.50.213. Republishing of schedules.

ARTICLE III—REGULATION OF MANUFACTURE, DISTRIBUTION  
AND DISPENSING OF CONTROLLED SUBSTANCES

- 69.50.301. Rules.  
69.50.302. Registration requirements.  
69.50.303. Registration.  
69.50.304. Revocation and suspension of registration.  
69.50.305. Procedure for denial, suspension or revocation of registration.  
69.50.306. Records of registrants.  
69.50.307. Order forms.  
69.50.308. Prescriptions.  
69.50.309. Containers.  
69.50.310. Sodium pentobarbital—Registration of humane societies and animal control agencies for use in animal control.  
69.50.311. Triplicate prescription form program—Compliance by health care practitioners.

ARTICLE IV—OFFENSES AND PENALTIES

- 69.50.401. Prohibited acts: A—Penalties.  
69.50.402. Prohibited acts: B—Penalties.  
69.50.403. Prohibited acts: C—Penalties.

## CHAPTER 69.52

### IMITATION CONTROLLED SUBSTANCES

#### Section

- 69.52.010. Legislative findings.
- 69.52.020. Definitions.
- 69.52.030. Violations—Exceptions.
- 69.52.040. Seizure of contraband.
- 69.52.050. Injunctive action by attorney general authorized.
- 69.52.060. Injunctive or other legal action by manufacturer of controlled substances authorized.
- 69.52.900. Severability—1982 c 171
- 69.52.901. Effective date—1982 c 171.

#### 69.52.010. Legislative findings

The legislature finds that imitation controlled substances are being manufactured to imitate the appearance of the dosage units of controlled substances for sale to school age youths and others to facilitate the fraudulent sale of controlled substances. The legislature further finds that manufacturers are endeavoring to profit from the manufacture of these imitation controlled substances while avoiding liability by accurately labeling the containers or packaging which contain these imitation controlled substances. The close similarity of appearance between dosage units of imitation controlled substances and controlled substances is indicative of a deliberate and wilful attempt to profit by deception without regard to the tragic human consequences. The use of imitation controlled substances is responsible for a growing number of injuries and deaths, and the legislature hereby declares that this chapter is necessary for the protection and preservation of the public health and safety.

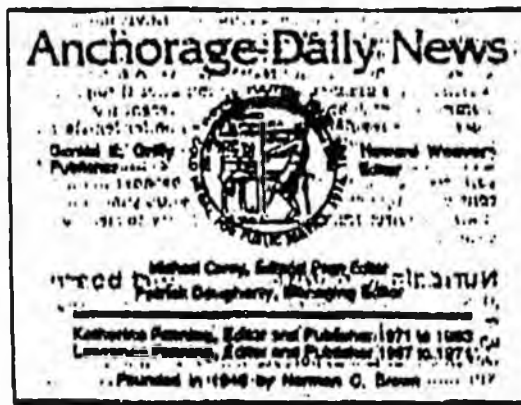
Added by Laws 1982, ch. 171, § 2, eff. July 1, 1982.

#### 69.52.020. Definitions

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Controlled substance" means a substance as that term is defined in chapter 69.50 RCW.

(2) "Distribute" means the actual or constructive transfer (or attempted transfer) or delivery or dispensing to another of an imitation controlled substance.



## Apt. wanted

### Housing squeeze needs state attention

During Alaska's recession, you heard a lot about the pain suffered by property owners. Homeowners lost jobs and lost their houses. Landlords watched rents plummet and tenants disappear. Many owners who managed to hold on saw their property values fall far below what they owed the bank.

*Alaska needs to show more concern for people who can't take out 30-year mortgages or pay \$10,000 a year for housing.*

You didn't hear so much about the people who came out ahead. As housing prices tumbled out of the stratosphere, more people were able to afford decent housing. Those with steady but low-paying jobs

took advantage of falling rents to move to better quarters. Some renters managed to buy pieces of their own.

As the economy recovers, what some people consider good times seem to be coming back. Property values and rents are up; housing of all types is selling briskly again.

But forgotten once more are those for whom higher housing prices are a curse, not a blessing. Decent housing is once again starting to be priced beyond the reach of those who don't enjoy a solidly middle-class existence.

About 30 percent of clients at Anchorage's main homeless shelter are people who cannot find housing they can afford. More than 2,100 people are on waiting lists for federal housing assistance in Alaska. Here in Anchorage, more than 170 of those who get housing aid cannot find landlords who will take what government aid lets them pay.

Alaska needs to show more concern for people who can't take out 30-year mortgages or pay \$10,000 a year for housing. An approach state Rep. Kay Brown is proposing may help. She wants to consolidate the state's 13 housing programs, now scattered throughout various agencies, under a single commission. The commission would oversee a housing trust fund that would pay for projects serving low- and moderate-income Alaskans.

Money for the trust would come from surplus funds at Alaska Housing Finance Corporation. Those surpluses are created as people pay off loans AHFC made years ago.

Consolidating housing programs all in one place is one way to make good on the age-old promise to streamline government. It would also offer a better overall picture of what Alaska is doing with housing and where state efforts fall short.

As a nation, our indifference to making sure everyone has safe, affordable shelter is appalling. Federal housing programs were never adequate — and President Reagan allowed them to shrivel and become corrupted. President Bush has shown little inclination to rescue housing from his predecessor's neglect.

If Alaskans are going to get more help finding decent, affordable housing, the state will have to take the lead. Rep. Brown's proposals are a good place to start the discussion.

# CIVIL RULES

# Rule 5

(2) of this paragraph, it required to be served with the court either reasonable time thereafter.

ered by the court on motion, the following until they are used in the

sitions and transcripts

quests for admissions

tion and responses

g subpoenas duces

of the above;

nce between counsel;

Def. The filing of with the court as made by filing them court location where wise directed by the permit the papers to event he shall note hwith transmit them

f service of all papers ved. other than those of proof is prescribed ly state the persons ow the day and man- written acknowledg- : of an attorney, an y, or a pro se litigant, served the papers, or o the court. Proof of ly and in any event the paper served by to make the proof of ision does not affect ert may at any time mended or supplied lo so would result in antial rights of any

ment.

visio paragraph upon attorney, a by an attorney in an nself be served in f paragraph (b) with

motion or other request for relief filed in the action proceeding where a period of one year has elapsed since the filing of any paper or the issuance of any process in the action or proceeding, and

(i) The final judgment or decree has been entered and the time for filing an appeal has expired, or

(ii) If an appeal has been taken, the final judgment or decree upon remand has been entered or the mandate has been issued affirming the judgment or decree, and

(iii) The party's attorney has not filed a notice of continued representation under Rule 81(d)(2).

(2) If a party is served under circumstances described in Section (1) of this paragraph, or if a party appeared in his or her own behalf in the prior action or proceeding, the paper served shall include notice to the party of his right to file written opposition or response, the time within which such opposition or response must be filed, and the place where it must be filed.

(Adopted by SCO 5 October 9, 1959; amended by SCO 258 effective November 15, 1976; by SCO 354 effective April 1, 1979; by SCO 372 effective August 15, 1979; by SCO 375 effective August 15, 1979; by SCO 410 effective May 15, 1980; by SCO 471 effective June 1, 1981; by SCO 522 effective October 1, 1982; by SCO 695 effective September 15, 1986; by SCO 731 effective December 15, 1986; 817 effective August 1, 1987)

### Annotations

#### Cases

Service by mail is complete upon mailing regardless of whether the service is timely received. *Jefferson v. Spenard Builders Supply, Inc.*, Op. No. 51, 366 P2d 714, 717 (Alaska 1961).

Notice made by the clerk to all counsels of the entry of judgment constituted timely notice to parties. *Whitney Bros. Plumbing & H. v. Industrial & Com. Conat.*, Op. No. 438, 432 P2d 533 (Alaska 1967).

A motion to confirm an execution sale cannot be heard ex parte; service upon the opposing party is necessary. *Mallowee v. Grow*, Op. No. 841, 502 P2d 432 (Alaska 1972).

A motion for confirmation of an execution sale need not be served on a judgment debtor who defaults on an underlying claim. *Lansford v. Kaiser Gypsum Company, Inc.*, Op. No. 981, 316 P2d 151 (Alaska 1973).

A plaintiff's attorney's secretary's affidavit that she personally served a copy of a notice for taking deposition on the office of the attorney for defendants creates a rebuttable presumption that there has been compliance with this rule. A burden is then placed upon the defendant of proving that the nonexistence of the presumed fact was more probable than its existence. The defendant does not meet this burden by merely producing evidence which the trial court evaluates as "stand off" testimony. *Martens v. Metzgar*, Op. No. 1059, 524 P2d 566 (Alaska 1974).

Paragraph (b) of this rule, not Civil Rule 4, applies to proceedings which seek to enforce the terms of a prior divorce decree relating to child support payments. *Balchen v. Balchen*, Op. No. 1469, 566 P2d 1324 (Alaska 1977).

While it is preferred procedure to obtain court's permission before serving complaint on defendant in action to enforce child

support provisions of divorce decree, rather than on attorney, failure to do so does not require vacation of judgment. *Balchen v. Balchen*, Op. No. 1469, 566 P2d 1324 (Alaska 1977).

Personal notice of execution sale is not required under Civil Rule 5(a). *Queen of the North, Inc. v. LeGross*, Op. No. 1670, 582 P2d 144 (Alaska 1978).

Failure of default judgment creditor to serve motion for issuance of deed on property subject to execution sale was error, since although no service need be made on parties in default for failure to appear, the judgment debtor was not such a part because he had appeared prior to the motion in an unsuccessful effort to have the default judgment set aside. *Law Offices of Murphy L. Clark v. Altman*, Op. No. 2811, 680 P2d 1125 (Alaska 1984).

Although a default judgment had been entered against defendant on November 23, 1982 with respect to a new action by ex-wife seeking unpaid support payments, once the new action was consolidated with the earlier divorce action by court order entered December 14, 1982, defendant was entitled to be served with all pleadings and papers filed with the court pertaining to subsequent proceedings involving the new action, including written notice of a hearing on damages held on January 10, 1983. *Case v. Whittier*, Op. No. 2876, 689 P2d 467 (Alaska 1984).

## Rule 6. Time.

(a) Computation. In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period is to be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

(b) Enlargement. When by these rules or by a notice given thereunder or by order of the court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rules 50(b), 52(b), 59(b), and (c) and (f), and 60(b), except to the extent and under the conditions stated in them.

(c) Additional Time After Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper, other than documents served under Civil Rule 4(h), upon the party and the notice or paper is served upon the party by mail, three days shall be added to the prescribed period. This paragraph does not extend any time period calculated from a date

## Rule 6

## ALASKA RULES OF COURT

under Civil Rule 58.1.

(Adopted by SCO 5 October 9, 1959; amended by SCO 49 effective January 1, 1963; by SCO 98 effective September 16, 1968; by SCO 258 effective November 15, 1976; by SCO 274 effective June 15, 1977; by SCO 704 effective September 15, 1986; by SCO 836 effective August 1, 1987; by SCO 878 effective July 15, 1988; and by SCO 1007 effective January 15, 1990)

### Annotations

#### Cases

Under Rule 8(c) of the [Federal] Rules of Civil Procedure affirmative defenses must be pleaded, but the court may grant a motion for judgment on the pleadings and if matters outside the pleadings are presented the motion shall be treated as one for summary judgment under [Federal] R. Civ. P. 56 and all parties must be given reasonable opportunity to present all matters pertinent to such motion, and the party against whom the motion is made may apply to the court for further time to prepare his resistance to the motion under Rule 6(b). *Mitchell v. Land*, Op. No. 19, 355 P2d 682, 685 (Alaska 1960).

Computation under this rule relates only to matters of procedure and has no effect on substantive rights. *Wade v. Dworkin*, Op. No. 306, 407 P2d 587 (Alaska 1965).

A condemnor which fails to file a timely notice of appeal from a master's report can be granted an enlargement of time under this rule. *State v. Chackwm, Inc.*, Op. No. 522, 449 P2d 776 (Alaska 1968).

A condemnor's request for relief from its failure to file timely notice of appeal from a master's report and for relief from an oppressive proceeding is addressed to the sound discretion of the trial court, and its ruling will not be disturbed on appeal in the absence of a showing of abuse of discretion. *State v. Chackwm, Inc.*, Op. No. 522, 449 P2d 776 (Alaska 1968).

The trial court has jurisdiction under this rule to enlarge the period of time for appealing from a master's report in a condemnation action, even though such motion was made after the expiration of the specified time for appeal. *Collart v. State*, Op. No. 565, 456 P2d 480 (Alaska 1969).

The Supreme Court will not pass on the sufficiency of a landowner's showing that he is entitled for an enlargement of time for appealing from the report of a master in condemnation until the trial court's discretionary powers have been exercised. *Collart v. State*, Op. No. 565, 456 P2d 480 (Alaska 1969).

Orders to show cause are barred by this rule where not provided for by other rules. *Dlmmick v. O'Neill*, Op. No. 734, 490 P2d 483 (Alaska 1971).

A Saturday when court is closed is a holiday for purposes of computation of time. *David v. Sturm, Ruger & Co., Inc.*, Op. No. 1356, 557 P2d 1133 (Alaska 1976).

Argument that offer of judgment was untimely because it was presented five calendar days rather than five court days after the close of discovery was rejected. *Fairbanks North Star Borough v. Tundra Tours*, Op. No. 3052, 719 P2d 1020 (Alaska 1986).

### PART III. PLEADINGS AND MOTIONS

#### Rule 7. Pleadings Allowed—Form of Motions.

(a) Pleadings. There shall be a complaint and an answer; a reply to a counterclaim denominated as

such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if leave is given under Rule 14 to summon a person who was not an original party; and a third-party answer, if a third-party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third-party answer.

#### (b) Motions and Other Papers.

(1) An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

(3) The procedure for the submission and hearing of motions shall be as provided in Rule 77.

(c) Demurrers, Pleas, etc., Abolished. Demurrers, pleas and exceptions for insufficiency of a pleading shall not be used.

(Adopted by SCO 5 October 9, 1959; amended by SCO 57 effective November 8, 1963; by SCO 258 effective November 15, 1976)

### Annotations

#### Cases

The fact that an insurer's motion to amend and answer to include a setoff against the insured was made orally at hearing on the insured's motion for a summary judgment is not a proper ground for the trial court's refusal to consider the motion or for denying it. *United States Fire Insurance Co. v. Schabel*, Op. No. 852, 504 P2d 847 (Alaska 1972).

Where defendant in suit on a contract raised issue of inadequate performance, plaintiff had no obligation to reply by raising issue of waiver. *City of Palmer v. Anderson*, Op. No. 1978, 603 P2d 495 (Alaska 1979).

Where defendant had access to grand jury testimony of witnesses who later testified to police reports, witness interviews and test results, defendant had adequate knowledge of the charge and a motion for a bill of particulars requesting the state to reveal the "overt acts" the state would rely on to prove criminal negligence was properly denied. *Lupro v. State*, Op. No. 1960, 603 P2d 468 (Alaska 1979).

A motion for a bill of particulars requesting detailed information regarding all facets of the state's case, including every fact to be proved at trial, the names, addresses, telephone numbers and occupations of every witness to be called to prove those facts, and every item of physical evidence to be presented, went far beyond the proper scope of a bill of particulars. *Lupro v. State*, Op. No. 1960, 603 P2d 468 (Alaska 1979).

Where plaintiff's counsel requested exclusion of certain testimony at a hearing on motions in limine made by defendant, a written motion was not required for exclusion of the testimony. *Loof v. Sanders*, Op. No. 2859, 686 P2d 120 (Alaska 1984).

## Annotations

## Cases

The taxing of costs for witness fees is governed by Civil Rule 83 and Administrative Rule 7(c) rather than the general provisions of Civil Rule 79(b). *Miller v. Sears*, Op. No. 2447, 636 P2d 1183 (Alaska 1981).

## PART XII. SPECIAL PROCEEDINGS

## Rule 84. Change of Name.

(a) **Petition.** Every action for change of name shall be commenced by filing a verified petition entitled in the name of petitioner, showing the name which petitioner desires to adopt and setting forth the reasons for requesting a change of name.

(b) **Notice of Application.** The court by order shall set a date for hearing not less than 40 days after the date of the order. Notice of the filing of the petition with a statement of the relief sought therein and the date of hearing thereon shall be published in a newspaper designated by the court as being the publication most likely to give appropriate notice under the circumstances. Publication of the notice shall be made once each week for 4 consecutive calendar weeks prior to the date of the hearing. In its discretion, the court by order may also require the posting of the notice at such place or places, in designated communities as may be appropriate. Proof of publication shall be made as prescribed in Rule 4(e)(5). Proof of posting shall be made by affidavit.

(c) **Judgment — Notice — Filing.** If satisfied that there is no reasonable objection to the assumption of another name by petitioner, the court shall by judgment authorize petitioner to assume such other name after a time to be fixed in the judgment, which shall not be less than 30 days after the date shown in the clerk's certificate of distribution on the judgment. Within 10 days after the date shown in the clerk's certificate of distribution on the judgment, a copy thereof shall be published once in the newspaper designated by the court under the provisions of subdivision (b). The court may also require the posting of a copy of the judgment as provided in subdivision (b). Within 20 days after the date shown in the clerk's certificate of distribution on the judgment, proof of publication and of any posting shall be filed with the clerk. The petitioner may then submit a certificate to be issued by the clerk stating that the judgment has been entered and that all requirements for posting a copy of the judgment have been met.

(d) **Applicability.** This rule shall not apply to restoration of a prior name sought in a complaint for divorce or in a petition for dissolution of marriage.

(e) **Change of Name for Minor Child.** An action for change of name for a minor child will be commenced by the filing of a verified petition in the

name of a parent or guardian on behalf of the minor child, showing the name which the petitioner desires the child to assume and setting forth the reasons for requesting the change of name. No petition will be heard unless written consent to the petition is filed by both the child's legal parents and the child's legal guardian (if any), or unless proof of service is filed with the court showing that the child's parent(s) and legal guardian(s) have been served with a summons and a copy of the petition at least 30 days prior to the date set for hearing. Service of the petition and summons will be in accord with the provisions of these rules applicable to the service of a complaint and summons. The summons must advise the recipient of the date set for hearing on the petition.

If the court receives an objection to the proposed name change presented by a parent and/or legal guardian of the child prior to or at the time of the hearing on the proposed name change, the court shall consider the objection and shall only grant the name change if the court finds the name change to be in the best interest of the child. The court shall also consider the desires of a child old enough to express the same in determining whether a requested name change will be granted.

The requirements of (b) and (c) of this rule apply to a change of name proceeding brought under this section.

(Amended by SCO 49 effective January 1, 1963; by SCO 56 effective November 1, 1963; by SCO 252(2) effective September 22, 1976; by SCO 542 effective October 1, 1982; by SCO 554 effective April 4, 1983; by SCO 624 effective June 15, 1985; by SCO 671 effective June 15, 1986; and by SCO 999 effective January 15, 1990)

## Cross References

(a) CROSS REFERENCES: AS 09.55.010

## Rule 85. Forcible Entry and Detainer.

(a) **Practice and Procedure.** In an action for the possession of any land, tenement or other real property brought under the forcible entry and detainer provisions of law, the practice and procedure shall be as in other civil actions, subject to the following:

(1) **Description of Premises.** The premises claimed shall be described in the complaint with such certainty that the defendant will be distinctly advised of their location so that possession thereof may be delivered according to that description.

(2) **Summons.** Summons shall be served not less than two days before the day of trial. The date set for trial shall be not more than 15 days from the date of filing of the complaint unless otherwise ordered by the court.

(3) *Continuances.* No continuance shall be granted for a longer period than 2 days, unless the defendant applying therefor shall give an undertaking to the adverse party, with sureties approved by the court, conditioned to the payment of the rent that may accrue if judgment is rendered against defendant.

(b) *Referral to District Courts for Trial.* Any such action filed in the superior court may be referred by the court to a district court for trial when the amount does not exceed the jurisdiction of district court.

(Amended by SCO 49 effective January 1, 1963; amended by SCO 678 effective June 15, 1986; and by SCO 739 effective August 28, 1986)

Cross References

(a) (generally) CROSS REFERENCE: AS 09.45.070

Annotations

Cases

Although appellants were brought to trial under the summary procedure provided for a forcible entry and detainer action, it would have been contrary to the one form of action principle to have forced appellees to resort to a separate ejectment action where proof showed that the appellants were not entitled to the possession of the premises because of nonexistence of an alleged lease and where appellants had not objected to an extension of the scope of testimony beyond the narrow issues of a forcible entry and detainer action at the trial and did not contend that they were prejudiced thereby. *Thrift Shop, Inc. v. Alaska Mutual Savings Banks, Op. No. 277, 398 P2d 657 (Alaska 1965).*

The provision in the forcible entry and detainer statute, AS 09.45.070 (b) purporting to limit recovery in such an action to arrears of rent and damage to property is without significance as attempting to regulate a matter of practice and procedure regulated by court rule. *Thrift Shop, Inc. v. Alaska Mutual Savings Bank, Op. No. 277, 398 P2d 657 (Alaska 1965).*

Where Superior Court twice continued the trial to allow tenant in a forcible entry and detainer action to obtain substitute counsel after his first attorney withdrew, and specifically informed tenant that no further continuance would be granted, the superior court did not abuse its discretion in denying tenant's request for a third continuance to allow his substitute counsel to return from vacation. *Taylor v. Gill Street Investments, Op. No. 3228, 743 P2d 345 (Alaska 1987).*

Rule 86. Habeas Corpus.

(a) *Scope of Civil Rules.* The procedure in an action for habeas corpus shall be governed by the rules governing the procedure in civil actions in the superior court to the extent that such rules are applicable.

(b) *Complaint.* The complaint shall be verified by the prisoner or by someone on his behalf who shall be known as the plaintiff and shall state in substance as follows:

(1) That the person in whose behalf the writ is applied for (the prisoner) is restrained of his liberty.

(2) The name of the prisoner, if known, or his description.

(3) The name of the officer or person by whom the prisoner is so restrained, if known, or his description.

(4) The place of restraint, if known.

(5) That the action for habeas corpus by or on behalf of the prisoner is not prohibited by law.

(6) The cause or pretense of such restraint, according to the best of the knowledge and belief of the plaintiff.

(7) The reasons why the restraint is illegal.

(8) If the restraint is by virtue of any warrant, judgment, order or process, a copy thereof shall be attached as an exhibit, or an explanation of its absence shall be made in the complaint.

(9) That the legality of the restraint has not been already adjudged upon a prior writ of habeas corpus to the knowledge or belief of the plaintiff.

(c) *Writ — Order to Show Cause — Warrant.*

(1) *Issuance Upon Application.* Upon the presentation or filing of a complaint, the court (or judge) shall, unless it appears that the plaintiff is not entitled to that relief:

[a] Issue a writ of habeas corpus directed to the person having custody of the prisoner, or his superior, ordering him to answer the writ stating his authority for restraining the prisoner and to bring the person alleged to be restrained before the court (or judge) forthwith, or at a designated time and place; or

[b] Issue an order to show cause why the writ should not be issued, returnable as in [a] above; or

[c] Issue a warrant in lieu of habeas corpus.

(2) *Issuance Without Application.* Any judicial officer may issue a writ of habeas corpus, or an order to show cause, sua sponte whenever it appears that any person is illegally restrained. A writ issued by a district court judge or magistrate is returnable before a judge of the superior court.

(3) *Duplicate Original Writs.* Duplicate original writs or orders to show cause may be issued in any number required.

(d) *Sufficiency of Writ.* The writ or order to show cause shall not be disobeyed for any defect of form. It is sufficient (1) if the person having custody of the prisoner is designated simply as the person having custody of the prisoner, and (2) if the person restrained, or who is directed to be produced, is designated by name; or if his name is uncertain or unknown, if he is described in any other way, so as to designate the person intended. Anyone served with the writ is deemed the person to whom it is directed.

(e) *Service of Writ.*

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STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

May 16, 1991	House L & C	5:00 p.m.
May 17, 1991	House L & C	5:00 pm
May 20, 1991	House L & C	3:13 pm

S B

G 4

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 26, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 5-7-91

The LABOR AND COMMERCE Committee considered:

CSSB 64(FIN)am

CS FOR SENATE BILL NO. 64 (FINANCE) am

ALASKA HOUSING FINANCE CORPORATION

"An Act defining 'sponsors' for purposes of laws relating to the Alaska Housing Finance Corporation; extending the date applicable to inspections and code compliance of certain housing; and providing for an effective date."

RECOMMENDATIONS:

be replaced with \_\_\_\_\_  the same title

have attached amendments(s)  a new title

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) AHFC

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
		<i>David Jolley</i>		✓	
		<i>[Signature]</i>		✓	
		<i>Christine Taylor</i>		✓	
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
		<i>Kevin Paul LaRocca</i>		✓	
		<i>[Signature]</i>		✓	

*[Signature]*  
CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 1

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Bill Version: SR 64

(S) Publish Date: 3-14-91  
Revenue

Revision Date: \_\_\_\_\_ Department Affected: \_\_\_\_\_  
Title: defining "sponsors" as related to laws concerning AHFC BRU: Alaska Housing Finance Corporation  
Component: Alaska Housing Finance Corporation

Sponsor: Fahrenkamp  
Requestor: Fahrenkamp

COMPONENT SERIAL NO.	1	1	0
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
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POSITIONS:

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

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.)  
The bill elaborates on the term "sponsor", which is already in current statute. AHFC supports this bill in its present form.

Changes in CS SB 64 (FIN) have no fiscal impact. This fiscal note is appropriate.

Prepared By: Mitzi C. Barker  
Division: AHFC/Planning & Research

4/9/91 /date cal Come Aide (initial)

Approved by Commissioner: William B. Barker for  
Agency: Revenue Date: 1-29-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

# Alaska State Legislature

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Senate

## MEMORANDUM

TO: Representative David Finkelstein, Chair  
House Labor and Commerce Committee

FROM: Senator Bettye Fahrenkamp

DATE: May 6, 1991

SUBJECT: CS SB 64 (FIN) AM  
"An Act defining 'sponsors' for purposes of laws relating to the Alaska Housing Finance Corporation; extending the date applicable to inspections and code compliance of certain housing; and providing for an effective date."

---

This bill got much bigger when it was amended on the Senate floor, but it really consists of two fairly straightforward pieces: a definition and extension of an effective date.

Section 3 is the substance of the bill before the floor amendments. It defines the term 'sponsors.' Throughout AHFC statutes, there are repeated references to sponsors (e.g., AS 18.56.090, which lists the general powers of the corporation, states that AHFC "may, for the purpose of providing housing for persons of lower and moderate income or persons located in remote, underdeveloped, or blighted areas of the state and for its other corporate purposes, make or participate in the making of mortgage loans to *sponsors*, developers, builders, and purchasers of residential housing....").

Section 3 clarifies what a sponsor is. The definition in the bill would allow a non-profit housing agency, a consumer housing cooperative, a cooperative church council or other non-governmental entities to qualify for AHFC loans to provide low income housing, should AHFC choose to begin making loans for that purpose.

Sections 1, 2, 4 and 5 are the result of an amendment offered by Senator Rodey on the Senate floor. Last year, a bill passed (HB 368 by Rep. Swackhammer) which established building standards for homes to be financed with public funds and constructed after June 30, 1991. One of the requirements is inspection by a qualified building inspector. However, at this time, there are only 5 such inspectors in the state, and all work for municipalities. Certifying inspectors has proven to be more time consuming than originally anticipated.

In order to avoid delaying new construction, AHFC has asked that we provide an additional year to implement the provisions of the new law. Former Rep. Swackhammer recommended the extension, Sen. Rodey agreed to offer it and the Senate supported the amendment and passage of SB 64 unanimously.

S B

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# HOUSE COMMITTEE REPORT

(7)

Date Referred: May 4, 1992

FURTHER REFERRALS:

Finance

Date of Committee Action: 5-7-92

The LABOR AND COMMERCE Committee considered:

CSSB 74(HES) am

CS FOR SENATE BILL NO. 74 (HES) am

HEALTH INS. POOL: UNINSURABLES

"An Act relating to pooled health insurance for individuals who are uninsured or denied adequate coverage; and providing for an effective date."

RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

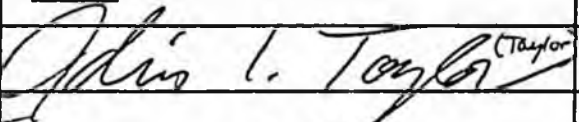
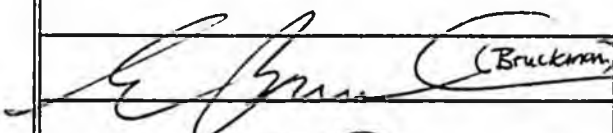
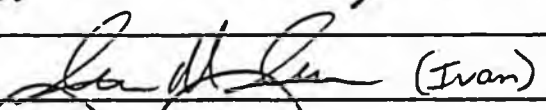
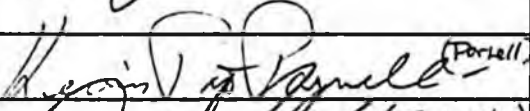
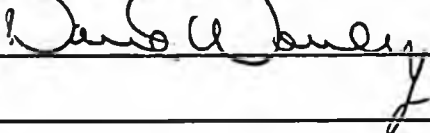
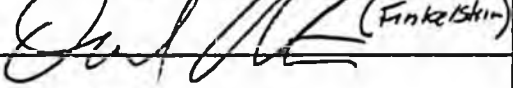
ADOPTS: \_\_\_\_\_ letter of Intent

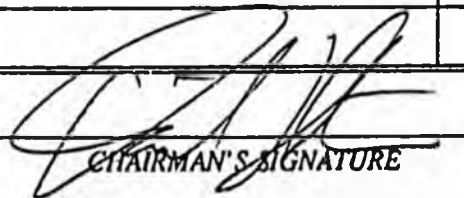
ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact Commerce (5/5), Admin (5/6)  fiscal note(s) \_\_\_\_\_

zero fiscal note HSS (5-5-92)  zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
				X	
				✓	
	✓			✓	
	✓				

  
 CHAIRMAN'S SIGNATURE

**FISCAL NOTE**

**STATE OF ALASKA  
1992 LEGISLATIVE SESSION**

BILL NO. CSSB No.74 (HES) am

Revision Date: May 4, 1992

Department Affected: Health & Social Services

Title: An act relating to pooled health

BRU: Medicaid

insurance for Individuals.....

Component: Medicaid Non-Facility

Sponsor: Kertulla

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 

2	2	9	
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**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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**FUNDING (Thousands of Dollars)**

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY:	0	0	0	0	0	0

**Estimate of current year impact:**

ANALYSIS: (Attach a separate page if necessary.)  
By excluding persons who have eligibility for Medicaid from state Insurance coverage (Sec. 21.55.140), CSSB 74 would have no fiscal effect on Medicaid costs.

Prepared by: Kimberly B. Busch *Kimberly B. Busch*

Phone: 465-3355

Division: Medical Assistance

Date: 5-5-92

Approved by Commissioner: Theodore A. Mala, MD, MPH *[Signature]*

Agency: Health and Social Services

Date: 5/5/92

Distribution (by Preparer: Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies))

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. CSSB 74 (HES) at

Revision Date: 5/2/92

Department Affected: Commerce & Econ. Dev.

Title: Relating to pooled health insurance

BRU: Insurance

who are uninsured or denied adequate coverage

Component: Operations

Sponsor: Senator Kerttula

Requestor: Senator Kerttula

COMPONENT SERIAL NO. 

0	3	5	4
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL	1.9	.6	.6	.7	.7	.8
CONTRACTUAL	7.5					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	9.4	.6	.6	.7	.7	.8
CAPITAL	0	0	0	0	0	0
REVENUE FUND RESOURCE:	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	9.4	.6	.6	.7	.7	.8
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	9.4	.6	.6	.7	.7	.8

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS (Attach a separate page if necessary.)

SEE ATTACHED

Prepared By: Don Koch, Chief of Market Surveillance *[Signature]*

Phone: 465-2577

Division: Insurance

Date: 5/5/92

Approved by Commissioner: Glenn A. Olds *[Signature]*

Agency: Department of Commerce & Economic Development

Date: 5-5-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., and Impacted Agency(ies).

Page 1 of 2

DK/dg19052D-3/050592a

(Rev. 12/91)

FISCAL NOTE - CSSB 74 (HES) am

ANALYSIS:

This legislation creates a health insurance pool for individuals who are uninsured or denied adequate coverage. It creates an association in which all insurers writing health insurance must participate as a condition to doing business. This fiscal note assumes that the full faith and credit will not be exposed by the association. It also assumes that the formation of the association will require the director's presence for three meetings. It also assumes that contractual assistance will be needed for the writing of any necessary regulations and review of plan of operation. Subsequent activity by the division should be contained by one meeting annually after formation.

9052D-4/050592d

FISCAL NOTE

BILL NO. CSSB74(HES)am

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: May 5, 1992

Department Affected: All State

Title: An Act relating to pooled health insurance for individuals who are uninsured;

BRU: All State

Sponsor: Kerttula

Component: All State

Requestor: Senate Finance

COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	22.7	593.8	593.8	593.8	593.8
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	22.7	593.8	593.8	593.8	593.8

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of dollars)

GENERAL FUND	0	22.7	593.8	593.8	593.8	593.8
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	0	0	0	0	0	0
TOTAL	0	22.7	593.8	593.8	593.8	593.8

POSITIONS

FULL-TIME:	0	0	0	0	0	0
PART-TIME:	0	0	0	0	0	0
TEMPORARY:	0	0	0	0	0	0

Estimate of current year impact: none

ANALYSIS: (attach a separate page if necessary.) Passage of this bill will also increase personal services cost to political subdivisions and school districts by approximately \$498.8 in FY 95 and each year thereafter. See attached analysis for details.

Prepared By: Gary Bader *Gary M. Bader*  
Division: Retirement and Benefits

Phone: 465-4470  
Date: May 6, 1992

Approved by Commissioner: Nancy Bear Usher *Nancy Bear Usher*  
Agency: Department of Administration

Date: 5/6/92

CSSB 74 (HES) am  
 Analysis of Financial Impact  
 Prepared by the Division of Retirement and Benefits  
 Department of Administration  
 May 5, 1992  
 Page 2 of 4

Passage of this bill would require operating losses incurred by the Comprehensive Health Insurance Association to be shared by members of the Association. The Association may provide for assessments against individual members to meet these losses. This analysis is based on estimates of operating losses and the resulting assessments to the State's plans. These estimates have been developed by the State's health insurance carrier, Aetna.

For purposes of this analysis it is assumed that the insurance pool would break even in the first year of operation (FY93). The second and third year losses would be \$148,366 and \$229,583 respectively.

The costs on page 1 of this fiscal note consist of two components--active employees and retirement system contributions. These components are discussed separately below:

State of Alaska Costs

Active Employees

These operating losses when allocated to the State's health plan for active employees would result in no increase in cost for health insurance in the first year, \$0.14/employee/month in the second year and \$0.85/employee/month in the third and following years. The costs for active employees are calculated as follows:

FY 94	
13,500 employees X 12 months X \$.14 increase=	\$22.7
FY 95 (and following fiscal years)	
13,500 employee X 12 months X \$.85 increase=	\$137.7

### Retirement System Contributions

The operating losses outlined above that are allocated to the State's retiree health plan will result in an increase to employer contributions to the Public Employees' (PERS) and Teachers' Retirement Systems (TRS). These increases will not become effective until FY 95. The increase in funding to both the Judicial Retirement System and the Elected Public Officers Retirement System is insignificant and not considered here.

The bill is estimated to increase the State's contributions by .06% of the Public Employees' Retirement System (PERS) payroll, and .05% of the Teachers' Retirement System (TRS) payroll. The FY 95 State PERS payroll, including the University of Alaska, is estimated to be \$707,802,127 (State \$626,535,254 and University of Alaska \$81,266,873).

The FY 95 State TRS payroll, including the University of Alaska, is estimated to be \$482,697,507 (Department of Education/Legislature \$5,857,379 and the University of Alaska \$56,901,980).

The estimated FY 95 increase in contributions for the State of \$456.1 is calculated as follows:

Estimated State PERS FY 95 payroll	\$626,535,254	
PERS contribution rate increase	x <u>0.06%</u>	
State total PERS cost .....		\$375.9
Estimated University of Alaska PERS FY 95 payroll	\$81,266,873	
PERS contribution rate increase	x <u>0.06%</u>	
U of A total PERS cost .....		\$ 48.8
Estimated Department of Education/ Legislature TRS FY 95 payroll	\$5,857,379	
TRS contribution rate increase	x <u>0.05%</u>	
DOE/Leg total TRS cost.....		\$ 2.9
Estimated U of A TRS FY 95 payroll	\$56,901,980	
TRS contribution rate increase	x <u>0.05%</u>	
U of A total TRS cost .....		\$ 28.5
FY 95 increased retirement system costs.....		\$456.1
TOTAL FY 95 STATE COSTS INCLUDING ACTIVE HEALTH COSTS		<u>\$593.8</u>

# Alaska State Legislature

Sen. Jay Kerttula, Co-Chairman  
Sen. Pat Pourchot, Co-Chairman

State Capitol  
Juneau, AK 99801-1182  
(907) 465-1200  
(907) 463-3066 Fax

Sen. Al Adams  
Sen. Jim Duncan  
Sen. Lyman F. Hoffman  
Sen. Dick Shultz  
Sen. Rick Uehling

## Senate Finance Committee

Box 1009  
Palmer, AK 99645  
(907) 376-2675  
(907) 376-0315 Fax

### CS FOR SENATE BILL 74 (HESS) POOLED HIGH RISK HEALTH INSURANCE

#### CONTENTS OF PACKET

- 1) SPONSOR STATEMENT
- 2) SECTIONAL ANALYSIS AND COPY OF BILL AND FISCAL NOTES
- 3) CONSUMERS REPORT 1990, PAGES OF "THE CRISIS IN HEALTH INSURANCE"
- 4) WHAT ARE HIGH RISK POOLS AND HOW DO THEY WORK
- 5) TABLE OF HIGH RISK POOLS IN 25 STATES, HEALTH BENEFITS LETTER
- 6) HIGH RISK HEALTH INSURANCE PROVISIONS IN STATES, FROM THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS
- 7) LETTERS OF SUPPORT FROM:

UNINSURABLE INDIVIDUALS, THE AMERICAN DIABETES ASSOCIATION, ALASKA AFFILIATE, DR. MELOCHE, THE ALASKA STATE MEDICAL ASSOCIATION, ALASKA STATE HOSPITAL AND NURSING HOME ASSOCIATION, SOUTHERN ALASKA LIFE UNDERWRITERS ASSOCIATION, AND AETNA.

# Alaska State Legislature

Sen. Jay Kerttula, Co-Chairman  
Sen. Pat Pourchot, Co-Chairman

Sen. Al Adams  
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Sen. Dick Shultz  
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### Sponsor Statement

CS for Senate Bill 74 (HESS)

High Risk Health Insurance

CS for Senate Bill 74 creates high risk insurance for those who are denied health insurance by the private market. It works very much like high risk automobile insurance. It is time that Alaska join the other 26 states that have enacted this high risk health insurance legislation so that Alaskans with health problems will not have to keep moving out of state, or stay home suffering, to avoid bankrupting their families.

This bill is not a comprehensive solution to the health care crisis, but it will make a significant difference to those who need it now. It is one thing we can do now, while we continue to work on a larger solution. It puts in place a mechanism to cover those who are at high risk. Future solutions will be more feasible because this piece of the problem has been addressed.

This bill will help that portion of the uninsured who can afford higher cost health insurance but are denied adequate coverage. It will help these individuals avoid financial ruin and the indignity of incurring bad debt which is currently being shifted to all those who currently have insurance. It will allow the uninsurable to purchase health insurance and thus to act responsibly.

Alaskans, like others nationwide, are being dropped from insurance or denied coverage. Others have exclusion riders placed on their policies. All these people would qualify for this high risk pool.

#### Summary CS for SB 74 (HESS)

**Comprehensive Health Insurance Association:** The high risk insurance will be provided by an association of private health insurers who form a pool to provide high risk health insurance to Alaskans. Health insurers and medical service corporations are members of the Comprehensive Health Insurance Association as a condition of doing business in Alaska. The Board of Directors of the Association contracts with an insurer to pay claims and administer the plan. The Board is made up of 5 insurers selected by members, and two consumers appointed by the Director of the Division of Insurance.

**Benefits:** The plan will provide full major medical coverage or medicare supplement coverage to those denied insurance by two insurers.

**Premiums:** Premiums for the high risk health insurance will cost up to twice the "average" standard risk premium rate (200% cap) to cover the excess risk. At this premium level, losses are unlikely, especially in the early years.

**Financial Back-up:** If there are any losses, insurers in the state will be assessed in proportion to their share of premiums written in the State. Nationally assessments from mature plans with 150% premium caps average 1% of premiums. By changing the premium cap to 200%, assessments to insurers are expected to be far less. There will be no fiscal impact in the first year of operation (FY 93) and assessments to insurers after that are likely to be very minimal.

**Pre-existing Conditions:** Those with medical conditions who have had their insurance involuntarily terminated, or who have lost coverage when they changed jobs, will have continued coverage of pre-existing conditions. This is a very important provision which give Alaskans who are currently insured the security they need that they can get insurance should they loose coverage.

The high risk pool will be offered and managed by private enterprise with oversight by the division of insurance as is done for other private insurers. The Comprehensive Health Insurance Association must report back to the legislature every three years.

## The Problem

More and more Alaskans are being refused insurance because of a medical condition such as an injured knee, diabetes, cancer, or a chronic ear infection. Those in occupations that are hazardous, more likely to make claims, or in occupations that have high turnover are also excluded. Fry cooks, iron workers, and the clergy are examples of those who are excluded by some insurers. They are on "no quote lists". Between 1/4 and 1/2 of all policies have riders that exclude coverage of a condition such as diabetes or heart disease. Others are dropped from insurance when they develop a medical problem.

In your packets you will find a consumer report article which describes this problem well.

## Model Legislation Enacted in Other States

Senate Bill 74 is based on the National Association of Insurance Commissioners Model Legislation.

The twenty six other States that have enacted high risk pools based on the National Association of Insurance Commissioners model include Washington, Oregon, California, New Mexico, Utah, Montana and Wyoming, as well as many mid-western, southern, and eastern states.

## Correction of the Negative Impact of Medical Underwriting

High risk insurance is supported by many in the insurance industry because it corrects many of the injustices created by the competitive practice of insuring only those of lower risk of health problems.

Enclosed in your packet you will find a letter from the Southern Alaska Life Underwriters Association Legislative Committee. It states that the association strongly supports SB 74 because it "provides a fiscally responsible mechanism to guarantee these Alaskans coverage." "These people fall through the cracks because they either make too much money or have too large a net worth to qualify for Medicaid".

### Why it is Needed

This bill will prevent individuals from having to bankrupt their family or small business in order to pay for needed medical care.

Alaskans need to know that they can change jobs and still get health insurance that covers pre-existing conditions. They need the security that they can get and keep health insurance even though they or a family member may develop a serious health problem. It is time we remove Alaskans' fear of losing their health insurance coverage. This situation has gone on too long. Senate Bill 74 will

guarantee that health insurance will be available for purchase to Alaskans.

The suffering and delay of needed care has got to stop. Alaskans should not have to stay home, suffering, because they are denied health insurance when they need it most.

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

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

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

**MEMORANDUM**

May 5, 1992

**SUBJECT:** Pooled Health insurance - CSSB 74 (HES) am  
**TO:** Senator Jay Kerttula  
**FROM:** Michael F. Ford *M.F.*  
Legislative Counsel

MAY 05 1992

The following is a sectional analysis of CSSB 74 (HES) am:

Section 1 - Purpose.

Section 2

Sec. 21.55.010 - Establishes the comprehensive health insurance association and provides that membership in the association consists of certain insurers.

Sec. 21.55.020 - Establishes the board of directors of the health insurance association and provides for voting rights of members.

Sec. 21.55.030 - Establishes the general powers of the association.

Sec. 21.55.040 - Requires the association to submit a plan of operation. Establishes specific items that the plan of operation must include.

Sec. 21.55.050 - Exempts the association from the Administrative Procedure Act.

Sec. 21.55.060 - Provides that the association is exempt from taxation, except for taxes on real or personal property.

Sec. 21.55.100 - Requires the association to make insurance available to residents who are high risks. Specifies the type of deductible to be offered and requires that a medicare supplement plan also be provided to certain residents.

Senator Jay Kerttula

May 5, 1992

Page 2

Sec. 21.55.110 - Establishes the minimum benefits that must be offered under a state health insurance plan. Establishes a maximum lifetime benefit of \$1,000,000 per individual.

Sec. 21.44.120 - Establishes the deductible and copayment amounts for a state health insurance plan.

Sec. 21.55.130 - Limits the use of a preexisting condition to exclude coverage under state health insurance.

Sec. 21.55.140 - Establishes that certain care and benefits are not covered.

Sec. 21.55.150 - Provides that premium rates for state health insurance may not be excessive, inadequate, or unfairly discriminatory. Requires that premium rates be based on the age and geographic location of the insured. Limits the amount that can be charged as a premium.

Sec. 21.55.200 - Establishes criteria for selection of a writing carrier.

Sec. 21.55.210 - Provides the duties to be performed by the writing carrier and provides for reimbursement of expenses.

Sec. 21.55.220 - Provides for enrollment, for sharing losses, and for determining each member's liability.

Sec. 21.55.300 - Provides that a state resident who is a high risk is eligible to enroll in the state insurance plan. Prohibits enrollment if other coverage exists.

Sec. 21.55.310 - Specifies the procedure for enrollment and the contents of the application.

Sec. 21.55.320 - Requires acceptance or rejection of an enrollment application within 30 days.

Sec. 21.55.330 - Establishes the date that insurance will become effective.

Sec. 21.55.340 - Requires the association to solicit eligible persons for enrollment, by increasing public awareness of the state health insurance plan.

Sec. 21.55.400 - Establishes the duties of the director of the division of insurance.

Sec. 21.55.410 - Provides that the state is not liable for acts of the association.

Sec. 21.55.500 - Definitions.

Senator Jay Kerttula  
May 5, 1992  
Page 3

Section 3 - Requires the association to make insurance available to eligible residents by January 1, 1993.

Section 4 - Effective date.

MFF:pl  
92-327.plm

**SB 74: "An Act relating to pooled health insurance for individuals who are uninsured or denied adequate coverage; and providing for an effective date."**

With resolution of the issues below, the administration can support this legislation.

One of the more challenging issues facing this country and Alaska is the ever-increasing number of people unable to afford or even find health care insurance. Persons deemed "high risk" find themselves, in too many cases, uninsurable.

This legislation attempts to provide "high risk" individuals health care coverage by establishing a health insurance pool run by private insurers for the benefit of uninsured, high-risk state residents.

Pooled health insurance for individuals should be administratively consolidated with the small employer health insurance program in SB 242. The associations basically would incorporate the same membership, seek to provide coverage for separate groups currently unable to secure coverage, and seek to provide a viable insurance mechanism by spreading risk to a large pool of insureds.

It would be inappropriate for a regulator to define eligibility for participation in the plan. The public policy of the state in determining whether a person is in a high risk category should be set in statute. Also codified should be the services that should be provided in terms of medically necessary treatments or diagnosis of illness or injury. The Division of Insurance, as a regulator, oversees the operation of the comprehensive health insurance association and its insurance plans.

Cost-containment measures, such as those contained in Senate Bill 242, should be incorporated in this legislation. In lieu of the proposed mandate of usual, customary, reasonable or prevailing charges, it would be preferable to promote the use of various case-management programs, preferred provider contracts, health maintenance organizations, or limited network of provider arrangements - all proven cost savers.

AS 21.55.150 and AS 21.55.220 should provide that this program shall not shift costs to other insured persons or to the state.

AS 21.55.220(b) should be deleted to avoid employers dumping high-risk individuals into the pool. SB 242 addresses the problem of high-risk individuals for small employers with its separate pooling mechanism.

Consideration should be given to whether persons eligible for COBRA should have the option to purchase COBRA benefits or participate in this pool. Currently, the premium for COBRA benefits is unaffordably high because of adverse selection. The health care benefits under COBRA are not necessarily the same as those that will be available under the pooled health insurance program.

The definition of "residents who are high risks" and Article 4 which addresses eligibility and enrollment in the plan should better define those eligible to participate in the plan and those ineligible. The plan should not provide coverage that would allow the federal government to shift costs to the pooled health insurance program for care the federal government should be responsible for such as Veteran's Administration benefits and native health care. Similarly, existence of this plan should not operate to transfer state and federal obligations such as Medicaid to the pooled health insurance plan. Consideration should be given to language that would preclude a person who can secure affordable coverage from access to the plan merely because the individual secures declinations from two insurers.

The Legislature should review the operation of the program in three years to evaluate the effectiveness of the program on the target market as well as its effect on the overall market for health insurance. A "sunset" or similar provision to assure the continued effectiveness of the program should be included. no

The administration can support this legislation with resolution of the above issues.

---

Nancy Bear Usera, Commissioner  
Department of Administration

---

Theodore A. Mala, Commissioner  
Department of Health and Social Services

---

Glenn A. Olds, Commissioner  
Department of Commerce and Economic  
Development

Date: \_\_\_\_\_

NO. OF PAGES  1
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May 5, 1992

Anchorage Chapter  
3101 Penland Parkway # G-34  
Anchorage, Alaska 99508

Representative David Finkelstein  
State Capitol  
Juneau, Alaska 99801-1182

Central Peninsula Chapter  
P.O. Box 4093  
Seldovia, Alaska 99889

Dear Senator Kerttula:

On behalf of the 25,000 Alaskans affected by diabetes, our board of directors and volunteers, I heartily endorse the timely passage of Senate Bill 74.

Fairbanks Chapter  
P.O. Box 80726  
Fairbanks, Alaska 99708

Requests for an affordable and available source of insurance is the number one advocacy issue statewide dealt with through this office. These are not requests from individuals with financial needs, these are clients who can afford regular medical expenses and insurance premiums, but have been denied insurance due to diabetes. Therefore should they be involved in a catastrophic situation i.e., an auto accident they have no insurance. Ultimately the State will absorb all current and future medical costs.

Juneau Chapter  
P.O. Box 3-2583  
Juneau, Alaska 99801

Ketchikan Chapter  
P.O. Box 9119  
Ketchikan, Alaska 99901

Diabetes is a genetic disease with no cure and few preventative options. An individual who has insurance, smokes, lives an unhealthy lifestyle who develop heart or lung disease is insurable, a person who has no control over pancreatic function is denied insurance. It is proven that persons with diabetes and most chronic diseases / disabilities who maintain a prudent lifestyle and seek regular medical care require fewer hospitalizations.

Prince William Sound Chapter  
P.O. Box 586  
Valdez, Alaska 99686

Please, I encourage the Senate and the House to bring Alaska into step with the rest of the nation in providing a Pool Health Insurance Plan via Senate Bill 74. This single bill will provide an insurance option to working, productive individuals in Alaska, who otherwise may need to leave Alaska in search of an insurance option for their families.

Sitka Chapter  
P.O. Box 803  
Sitka, Alaska 99835

Sincerely,

South Peninsula Chapter  
P.O. Box 817  
Homer, Alaska 99603

Affiliate Office  
Northway Mall  
3101 Penland Parkway # G-34  
Anchorage, Alaska 99608  
(907) 278-3607  
FAX (907) 279-6015

Michelle A. Cassano  
Executive Director  
American Diabetes Association,  
Alaska Affiliate, Inc.



**American  
Diabetes  
Association.**

ALASKA AFFILIATE, INC.

April 27, 1992

Anchorage Chapter  
3101 Penland Parkway • G-34  
Anchorage Alaska 99508

Senator Jay Kerttula  
State Capitol  
Juneau, Alaska 99801-1182

Central Peninsula Chapter  
P O Box 4093  
Soldotna Alaska 99669

Dear Senator Kerttula:

Fairbanks Chapter  
P O Box 80728  
Fairbanks Alaska 99708

On behalf of the 25,000 Alaskans affected by diabetes, our board of directors and volunteers, I heartily endorse the timely passage of Senate Bill 74.

Juneau Chapter  
P O Box 32533  
Juneau Alaska 99801

Requests for an affordable and available source of insurance is the number one advocacy issue statewide dealt with through this office. These are not requests from individuals with financial needs, these are clients who can afford regular medical expenses and insurance premiums, but have been denied insurance due to diabetes. Therefore should they be involved in a catastrophic situation i.e., an auto accident they have no insurance. Ultimately the State will absorb all current and future medical costs.

Ketchikan Chapter  
P O Box 9119  
Ketchikan Alaska 99901

Diabetes is a genetic disease with no cure and few preventative options. An individual who has insurance, smokes, lives an unhealthy lifestyle who develop heart or lung disease is insurable, a person who has no control over pancreatic function is denied insurance. It is proven that persons with diabetes and most chronic diseases / disabilities who maintain a prudent lifestyle and seek regular medical care require fewer hospitalizations.

Prince William Sound Chapter  
P O Box 586  
Udetz Alaska 99686

Please, I encourage the Senate and the House to bring Alaska into step with the rest of the nation in providing a Pool Health Insurance Plan via Senate Bill 74. This single bill will provide an insurance option to working, productive individuals in Alaska, who otherwise may need to leave Alaska in search of an insurance option for their families.

Sitka Chapter  
P O Box 803  
Sitka, Alaska 99835

Sincerely,

South Peninsula Chapter  
P O Box 617  
Homer, Alaska 99603

Alaska Office  
Northway Mall  
3101 Penland Parkway • G-34  
Anchorage, Alaska 99508  
(907) 276-3607  
FAX (907) 279-6015

Michelle A. Cassano  
Executive Director  
American Diabetes Association,  
Alaska Affiliate, Inc.

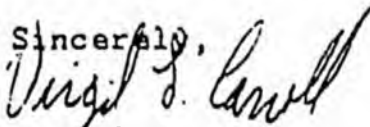
Virgil L. Carroll  
Box 319  
Cordova, Alaska 99574

Senator Jay Kerttula  
Alaska State Senate  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Kerttula:

It has come to my attention that you are sponsoring Senate Bill 74 which would create insurance coverage for high risk people who are unable to obtain insurance but can pay the premiums. A bill of this nature would be a great help to my family. I have been unable to obtain health insurance coverage for my family since it was cancelled last summer. I have applied to several insurance companies but have been denied coverage due to health problems. Since January I have had to have two Baloon Angioplasties of one of my Coronary Arteries, these procedures without any insurance coverage will cost me in the neighborhood of \$30,000. My wife and 16 year old son have had trouble with duodenal ulcers and need some further testing. Without a bill such as this that could help me obtain health insurance I may be faced with bankruptcy due to health costs. I urge you to do all in your power to see that Senate Bill 74 is passed so that people like me can have access to affordable health care. I appreciate your attention to this matter.

Sincerely,



Virgil L. Carroll  
Commercial Fisherman

Ernest B. Meloche, MD  
Fellow of the American Board of Emergency Physicians  
Emergency Department Medical Director  
Ketchikan General Hospital  
3100 Tongass Avenue  
Ketchikan, Alaska, 99901

MAR 31 1992

March 27, 1992

Senator Jay Kerttula  
PO Box V  
Juneau, Alaska, 99811

Dear Senator Kerttula,

I strongly support Senate Bill 74, the bill which provides high risk health insurance for those people found to be uninsurable. I am a practicing emergency physician in Ketchikan, Alaska, as well as the medical director for Ketchikan General Hospital Emergency Department. In my practice I have witnessed again and again the tragic situation of people who have been denied health insurance.

Many people in this category are responsible, working individuals who are excellent neighbors and citizens of our state, yet who have been afflicted with any of a wide number of diseases which create claims on a health insurance policy. The unavailability of insurance for individuals with medical conditions within the state of Alaska has forced patients of mine to leave Alaska. Others have been driven into bankruptcy and are living well below the poverty line simply trying to keep up with the costs of their illnesses.

The insurance industry insists that they can not accept such high risk individuals. While such a decision makes financial sense for a profit making company, we must ask ourselves if this is how we wish to treat our neighbors when they fall into such unfortunate circumstances. Senate Bill 74 creates a mechanism whereby such people would be allowed to act responsibly and purchase their insurance like anyone else, admittedly at a slightly higher rate. This is fully acceptable.

It is not acceptable to deny health care protection to those who need it most. Senate Bill 74 is an excellent step toward a responsible Alaskan health care policy. It is important for Senate Bill 74 to pass as soon as possible, since more Alaskans are finding themselves affected by this problem daily. If I can be of any assistance in this matter please feel free to contact me directly. Thank you for your efforts on behalf of those to whom this legislation will be literally life-saving.

Sincerely,



Ernest B. Meloche, MD,

THOMAS A. TURNER, CLU

INSURANCE AND EMPLOYEE BENEFITS

Senator J. Kerttula  
P.O. Box V  
Juneau, AK 99811

March 10, 1992

Re: SB 74

Dear Senator Kerttula:

MAR 10 1992

As the chairman of the Southern Alaska Life Underwriters Association Legislative Committee, I am writing to advise you of our strong support for your bill number 74. In reviewing all of the health insurance related submitted this session, yours offers the potential to benefit the greatest number of Alaskans. Unfortunately, most of these Alaskans do not have a well funded lobbying effort. Self employed individuals, small business owners and employees and their families make up this group. The one thing that they all have in common is one or more medical problems which deny them access to comprehensible medical coverage. These people fall through the cracks because they either make too much money or have too large a net worth to qualify for Medicaid.

We also support your legislation because it provides for a fiscally responsible mechanism to guarantee these Alaskans coverage. It is not a socialized all intrusive plan, as some have proposed, but a solid first step in meeting the needs of most Alaskans who desire adequate medical care.

Members of our organization will continue to be in contact with you throughout the session, and hope that we can assist you in getting this legislation passed.

Sincerely,



Thomas A. Turner, CLU  
Chairman, Legislative Committee  
Southern Alaska Life Underwriters  
TT/jm

cc: Senator Virginia Collins



Aetna Health Plans  
Suite 1600 Century Square  
1501 Fourth Avenue  
Seattle, WA 98101  
Mail. P.O. Box 91032 (98111-9132)

James E. Hickey  
General Manager  
(206) 467-2802  
Fax: (206) 467-2087

May 5, 1992

The Honorable Jay Kertula  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99801

Dear Senator Kertula:

This letter is written in support of CS SB 74 AmS, which creates a high risk pool for Alaskans with known medical conditions who are unable to otherwise obtain insurance coverage. The pool will be operated by an Association comprised of all insurers and medical service corporations participating in the Alaska market.

Aetna estimates that at least 1000 Alaskan individuals will secure insurance as a result of this legislation. While this is not a high absolute number, it does represent Alaskans with a very great need for health care coverage. Even with a premium cap of 200% of average plan costs, there is some risk that premiums will not fully cover claims in future years. This risk is significantly lower at 200% than the previously proposed 150% cap. Should there be losses, they will be spread among all privately insured Alaskans. We estimate that losses per insured Alaskan will range from 0 in year one to \$.37/month in year three.

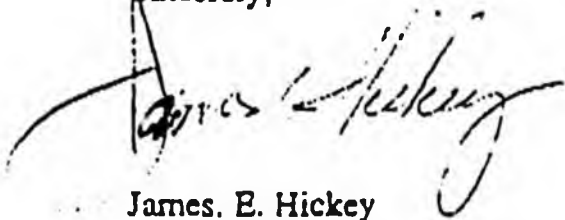
Once the program is established, Alaska may chose to follow the path of several other states which set a lower premium cap by funding losses through a broader based tax mechanism. This would allow an increased program participation while minimizing the impact on other insured residents. There should also be some net savings to the state health care system as SB 74 will result in some payments to medical providers which would otherwise fall into the category of unreimbursed care. This should slightly diminish the existing cost shift mechanism inherent in our existing system.

SB 74 is based on the National Association of Insurance Commissioners Model Act. It is written with the benefit of the experience of over 20 other state high risk pools, some of which are fully mature.

Page 2  
Senator Kerrula  
May 5, 1992

Adoption of SB 74 will not solve the high cost of health care, but it will greatly benefit a group of "high risk" Alaskans who would not otherwise be able to procure insurance. Along with SB 242, SB 74 represents significant reform of practices inherent the existing health insurance system which can best be corrected in this manner.

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Hickey". The signature is written in a cursive style with a large, sweeping initial "J".

James. E. Hickey

JEH/rew

ALASKA STATE

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# HOSPITAL & NURSING HOME

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ASSOCIATION

Monday  
May 4, 1992

**MEMO TO:** Members, House of Representatives  
Alaska State Legislature

**FROM:** Harlan R. Knudson, President/CEO  
Alaska State Hospital & Nursing Home Assn

**SUBJECT:** SUPPORT - SB 74, High Risk Health  
Insurance Pools (and SB 242,  
Small Business Insurance Pools)

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The House of Representatives has an opportunity to help the financially able, uninsurable - those individuals who cannot buy health insurance at any price - by enacting SB 74, creating a high risk insurance pool in Alaska.

SB 74 takes a small but positive step in increasing access to health insurance protection for the reported 90,000 uninsured Alaskans. Estimates given at hearings are that at least 5,000 Alaskans would be eligible, with perhaps 1,000 taking advantage of the pool.

Hopefully, SB 242 will also arrive soon from the Senate. That opens the insurance market for small employers and their employees. Again, a small but constructive step towards making health insurance available to all Alaskans.

Any questions, please call me or Garrey Peska or myself at 586-1790.

# # # #

ALASKA STATE

# HOSPITAL & NURSING HOME

ASSOCIATION

April 27, 1992

Senator Jay Kerttula  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Senator Kerttula:

The Alaska State Hospital and Nursing Home Association supports the provisions of Senate Bill 74.

The Health Resource and Access Task Force co-chaired by Senator Duncan and Representative Ellis, received information that up to 90,000 Alaskans are without health insurance coverage for various reasons.

Prominent among reasons for the uninsured are those who are unable to purchase insurance because of high risk or pre-existing conditions.

Senate Bill 74 addresses this critical problem and the Alaska State Hospital and Nursing Home Association urges passage of this bill during the 1992 legislative session.

Sincerely,



Garrey Peska,  
Vice-President,  
Financial Affairs



# ALASKA STATE MEDICAL ASSOCIATION

4107 Laurel Street • Anchorage, Alaska 99508-5334 • (907) 562-2662

April 22, 1992

Senator Jalmar Kerttula  
Alaska State Legislature  
P. O. Box V (MS 3100)  
Juneau, AK 99811

Dear Senator Kerttula:

The Legislative Affairs Committee of the Alaska State Medical Association has reviewed your Senate Bill #74. This bill would create a high risk insurance pool and allow high risk Alaskans to be eligible for insurance at a reasonable rate. One of the admirable parts of your bill is that it addresses pre-existing conditions and mandates that these patients be covered. It is an unfortunate fact that patients with pre-existing conditions are frequently excluded from insurance policies while these patients are, in fact, the very persons that need health coverage.

We support your bill. If I can be of further assistance to you regarding this bill, do not hesitate to contact me.

Sincerely yours,

Donald R. Lehmann, M.D.  
Chairman, Legislative Affairs Committee

DRL:bj

Paula



# N & S Texaco



March 19, 1992  
Anchorage, Alaska

Have A  
Happy Day

Senator Jay Kerttula  
State Legislature  
Juneau, Alaska

RE: Health Bill

Dear Senator Kerttula:

We have been very inspired by the work you have been doing for the people in the State of Alaska and want to thank you for your efforts in building a better Alaska in all facets of the State.

We are so in hopes that your Health Bill will be passed for a pool for providing high-risk health insurance and also medical insurance for small businesses.

There is not in Alaska an insurance company that will insure a person with catastrophic illness unless it is a company that you work for that has hundreds of people on the policy. we consequently have to have five employees in order to carry a group insurance at -our business and this policy costs us close to a thousand dollars per month which is very discouraging to small business owners. People do not realize the hardships stated that small businesses have with no medical coverage whatsoever.

Also the people that are uninsured in our state have not only the worry of their illness but also how they are going to get into a hospital for treatment if they have no insurance coverage and insurance companies will not carry them on a policy we know as our son is a juvenile diabetic and if we were to sell our business he would be uninsured and no one would cover him on insurance. The insurance companies say they will cover everything but the diabetes, consequently even if something is not caused or related to the diabetes they will still pinpoint it as such on the papers. so it indeed gets very frustrating.

Keep up the good work and if we can help in any way do keep our name on hand and if there is any literature on the latest on the health care plan we would be highly interested. We get most of the information through the local newspapers.

Thanks so much for your interest in the aboveforesaid matter.

Sincerely,

*NORMAN & Shirley PRESTON*

901 E. 15th Avenue • Anchorage, Alaska 99501 • Phone: 277-8331

What are high risk pools and how do they work?

## RISK POOLS

Among the uninsured are those who have been denied insurance coverage for reasons of poor health or who have been offered insurance policies with extremely high premiums or with restrictive exclusions for pre-existing conditions. For some of these people, money is not the barrier to health care until such time as large medical bills drain their resources.

In 21 states, high-risk individuals now have access to health insurance risk pools. Under such programs, health status is in theory eliminated as a barrier to health insurance, since insurance is available through the pool.

Clearly, risk pools do not eliminate all barriers to the availability of health insurance, because the insurance obtainable through pools is expensive. Nevertheless, advocates argue that this availability of insurance helps to create a principle that everyone should have the opportunity to purchase health insurance. Second, they argue that health insurance for high-risk individuals does address one small subset of the larger group of uninsured individuals.

### Basic Design

The basic design of a risk pool is to guarantee availability of adequate health insurance to all individuals, regardless of their physical condition. While the operation of pools varies considerably from state to state, there is a basic pattern. The state generally forms an association of all health insurance companies doing business in the state (proposed federal legislation would permit inclusion of self-insuring business in this association). One organization is selected to administer the plan under the guidelines for benefits, premiums, deductibles, etc., as set forth in state law. Individuals then are able to purchase insurance from the plan.

### Coverage

Risk pool policies do provide a fairly comprehensive package of benefits. Unlike many private individual policies that do not cover physician fees, risk pools generally specify a minimum benefit package that includes in-patient hospital services and services rendered by or at the direction of a physician, as well as some skilled nursing care, home health care, and prescription drugs.

Normally, a choice of deductibles is offered, ranging from as low as \$150 to as high as \$2,000, resulting in substantially different premiums. Some form of pre-existing condition restriction has been deemed necessary, if only to prevent individuals from "gaming" the system by enrolling for insurance only after they need medical care. Most pools have a six month waiting period for pre-existing conditions. However, some states allow a waiver of this waiting period through payment of a premium surcharge.

### Cost of Insurance

Cost remains the biggest barrier to obtaining health insurance through risk pools, since insurance provided to high risk individuals must obviously be more expensive than that for standard risks.

While these premiums are high, they would be even higher in the absence of state-imposed limits that cap premiums at no more than a fixed percentage (usually between 125% and 150%) of the standard individual premium in the state.

# High Risk Pools in 25 States

High Risk Pools - General Information						
	Effective Date	Pre-X Waiting Period	Premium Cap	Funding Source	Tax Offset	Plan Administrator
CA	1991	90 Days	125%	Tobacco Tax	n/a	BCBS
CO	1991	6 Months	175%	Income Tax Surcharge	n/a	BCBS
CT	1976	12 Months	150%	Insurer Assessment	No	Travelers
FL	1983	12 Months	300%	Insurer Assessment	No	BCBS
GA	note 1	6 Months	150%	General Revenue	n/a	n/a
IL	1989	6 Months	135%	General Revenue	n/a	Mutual of Omaha
IN	1982	6 Months	150%	Insurer Assessment	Yes	ASGC, Inc.
IA	1987	6 Months	150%	Insurer Assessment	Partial	Mutual of Omaha
LA	1992	6 Months	200%	Lottery & Hospital Tax	n/a	n/a
ME	1988	90 Days	150%	Hospital Tax	n/a	Mutual of Omaha
MN	1976	6 Months	125%	Insurer Assessment	No	BCBS
MS	1992	12 Months	175%	note 2	No	n/a
MO	1991	12 Months	200%	Insurer Assessment	Yes	BCBS
MT	1987	12 Months	400%	Insurer Assessment	Yes	BCBS
NE	1986	6 Months	165%	Insurer Assessment	Yes	BCBS
NM	1988	6 Months	150%	Insurer Assessment	Partial	BCBS
ND	1981	6 Months	135%	Insurer Assessment	Yes	BCBS
OR	1980	6 Months	150%	note 2	No	BCBS
SC	1980	3 Months	300%	Insurer Assessment	Yes	BCBS
TN	1987	6 Months	180%	Gen'l Rev. & Insur. Assmt.	No	BCBS
TX	note 1	6 Months	200%	Insurer Assessment	Yes	BCBS
UT	1981	6 Months	200%	General Revenue	n/a	BCBS
WA	1988	6 Months	180%	Insurer Assessment	Yes	Mutual of Omaha
WI	1981	6 Months	150%	Insurer Assessment	No	Mutual of Omaha
WY	1991	6 Months	200%	Insurer Assessment	Partial	BCBS

NOTES: (1) Effective dates in GA and TX depend upon additional legislative action. (2) MS and OR both assess payers, including insurers and TPAs, on a per capita basis. Source, *Communicating for Agriculture*

HEALTH INSURANCE  
POOLING PROVISIONS IN STATES

	<u>CALIFORNIA</u>	<u>COLORADO</u>	<u>CONNECTICUT</u>	<u>DELAWARE</u>
Cite	§§ 12700 to 12739.6 (1990)	§§ 10-8-501 to 10-8-531 (1990)	§ 38-376 (1975/1982)	No action to date
Based on NAIC Model?	No	No	No	
Eligibility Requirements	Rejected by at least one private plan, resident of state	Rejected by at least one private plan, resident of state	Resident of state	
Maximum Benefits	None specified	\$500,00	Not specified in statute	
Premium Cap	125% of standard risk individual rates	Initial rates 150% standard risk, subsequent rates shall cover expenses, but not exceed 175% standard risk	Not less than 125% nor more than 150% group rate	
Additional Financing	Cigarette and Tobacco Products Surtax Fund	Income Tax Surcharge \$2/\$4 where AGI > \$15,000	Assessment of all insurers and self-insurers in state	
Cost Containment Provisions	Plan shall include cost containment incentives	None specified	None specified	
Preexisting Condition Limitation	No coverage for 6 mo. for conditions had within last 6 mo.	No coverage for 6 mo. for conditions manifested prior 12 mo. or treated last 6 mo.	None specified	
Benefit Package	Major medical coverage	Major medical coverage	No provision	
When Eligible for Medicare	No longer eligible	Secondary to Medicare	No longer eligible	
Miscellaneous	Parts of Business, Transportation and Housing Agency			

HEALTH INSURANCE  
POOLING PROVISIONS IN STATES

	<u>DISTRICT OF COLUMBIA</u>	<u>FLORIDA</u>	<u>GEORGIA</u>	<u>HAWAII</u>
Cite	No action to date	§§ 627.648 to 627.6498 (1982/1990)	§§ 33-44-1 to 33-44-10 (1989)	No action to date
Based on HAIC Model?		Partially	Yes	
Eligibility Requirements		Rejected by at least 2 insurers, resident of state	Resident of state for at least 6 mo.	
Maximum Benefits		\$500,000	\$500,000	
Premium Cap		Separate schedules for low, medium, high risk; varies from 200% to 300% of standard risk for individual policies	Initially 125% standard risk, may not exceed 150% standard risk for individual policies	
Additional Financing		Access insurers; maximum assessment specified	Donations, any available state funds	
Cost Containment Provisions		Board plans must include cost containment measures	Use cost containment measures as necessary to maintain operation, suggested list	
Preexisting Condition Limitation		No coverage for 12 mo. for conditions had within last 6 mo.	No coverage for 6 mo., \$10,000 coverage next 6 mo., for conditions had within last 6 mo.	
Benefit Package		Major medical; patterned after state group health insurance program	Major medical; model Alternative 1	
When Eligible for Medicare:		Secondary to Medicare	Secondary to Medicare	
Miscellaneous		Includes market assistance plan to attempt placement of risk in commercial market		

**HEALTH INSURANCE  
POOLING PROVISIONS IN STATES**

	<u>IDAHO</u>	<u>ILLINOIS</u>	<u>INDIANA</u>	<u>IOWA</u>
Cite	No action to date	Insurance §§ 19-101 to 19-115	§§ 27-8-10-1 to 27-8-10-8 (1981/1990)	§§ 514E.1 to 514E.11 (1986/1989)
Based on HAIC Model?		Yes	Partially	Yes
Eligibility Requirements		Rejected by at least one private plan, resident of state + family	Rejected by at least one carrier, resident of state	Rejected by at least one carrier, resident of state + family
Maximum Benefits		\$500,000	None	Not specified in statute
Premium Cap		135% standard risk for individual coverage	150% standard risk	150% standard risk
Additional Financing		State appropriations	Assess insurers and self-insured plans not exempted by federal law	Assess insurers
Cost Containment Provisions		None specified	Suggested list, subject to commissioner approval	None specified
Preexisting Condition Limitation		No coverage for 6 mo. for conditions had within last 6 mo.; optional surcharge for partial waiver	No coverage for 6 mo. for conditions had within last 6 mo.	No coverage for 6 mo. for conditions had within last 6 mo.
Benefit Package		Major medical; model Alternative 1	Major medical; based on model Alternative 1	Major medical; model Alternative 1
When Eligible for Medicare:		Not eligible except if board offers a separate Medicare supplement policy	Not eligible for plan if eligible for any coverage meeting minimum requirements of state	Secondary to Medicare
Miscellaneous				

HEALTH INSURANCE  
POOLING PROVISIONS IN STATES

	<u>KANSAS</u>	<u>KENTUCKY</u>	<u>LOUISIANA</u>	<u>MAINE</u>
Cite	No action to date	No action to date	§§ 22:231 to 22:242 (1990)	tit. 24-A §§ 6051 to 6061 (1987/1990)
Based on NAIC Model?			Yes	Yes
Eligibility Requirements			Not eligible for coverage under any insurance arrangement; resident of state 6 mo.	Rejected by at least one insurer, resident of state
Maximum Benefits			Established by association, not less than \$500,000	\$500,000
Premium Cap			Initially 150% standard risk, may not exceed 200% individual standard risk	150% of standard risk for individual coverage
Additional Financing			Assessment of \$2 a day for hospitalized patients with insurance, \$1 a day for outpatients	Assess hospitals
Cost Containment Provisions			Include managed care provisions	None specified
Preexisting Condition Limitation			No coverage for 6 mo. for conditions had before date of coverage	No coverage for 90 days for conditions had within last 90 days, up to \$3500
Benefit Package			Major medical, model Alternative 1	No provision
When Eligible for Medicare			Excess to Medicare	Not eligible for plan
Miscellaneous			May close enrollment if insufficient funds to support more enrollees, excess to any other coverage	Limit of 600 enrollees in program

HEALTH INSURANCE  
POOLING PROVISIONS IN STATES

	<u>MARYLAND</u>	<u>MASSACHUSETTS</u>	<u>MICHIGAN</u>	<u>MINNESOTA</u>
Cite	No action to date	No action to date	No action to date	§§ 62E.01 to 62E.17; 62E.51 to 62E.55 (1976/1990)
Based on HAIC Model?				No
Eligibility Requirements				Rejected by at least one member, resident at least 6 mo.
Maximum Benefits				\$500,000
Premium Cap				125% standard risk
Additional Financing				Access providers of health coverage, including self-insurers
Cost Containment Provisions				May petition commissioner for waiver to allow experimental use of alternative plans of delivery
Preexisting Condition Limitation				No coverage for 6 mo. for conditions had within last 90 days; waiver under certain conditions
Benefit Package				3 alternatives
When Eligible for Medicare:				Secondary to Medicare
Miscellaneous				

HEALTH INSURANCE  
POOLING PROVISIONS IN STATES

	MISSISSIPPI	MISSOURI	MONTANA	NEBRASKA
Cite	No action to date	HB 998 (1990)	§§ 33-22-1501 to 33-22-1522 (1985)	§§ 44-4201 to 44-4235 (1987/1990)
Based on NAIC Model?		Yes	No	No
Eligibility Requirements		Resident of state and not covered by insurance arrange- ment, except if 300% or more individual standard risk	Rejected by at least 2 carriers, resident of state	Rejected by insurer within 6 mo., resident of state at least 6 mo.
Maximum Benefits		\$1,000,000	Not less than \$100,000	\$500,000
Premium Cap		Initial rate not less than 150% standard risk, maximum 200% standard risk for individual coverage	Not less than 150% nor more than 400% standard risk for individual coverage	Initially 135% standard risk, maximum 165% standard risk for individual coverage
Additional Financing		Assess insurers and other insurance arrangements	Assess insurers and others not exempt under ERISA	Assess insurers
Cost Containment Provisions		No provision	No provision	No provision
Preexisting Condition Limitation		No coverage for 12 mo. for conditions had within last 6 mo.	No coverage for 12 mo. for condi- tions had within last 5 years	No coverage for 6 mo. for condi- tions had within last 6 mo.
Benefit Package		Major medical, model Alternative 2	Major medical, based on model Alterna- tive 1	Major medical, established by board
When Eligible for Medicare:		Not eligible for pool	No provision	Not eligible for pool
Miscellaneous				Excess to any other benefits received

HEALTH INSURANCE  
POOLING PROVISIONS IN STATES

	<u>NEVADA</u>	<u>NEW HAMPSHIRE</u>	<u>NEW JERSEY</u>	<u>NEW MEXICO</u>
Cite	No action to date	No action to date	No action to date	§§ 59A-54-1 to 59A-54-21 (1980)
Based on NAIC Model?				Yes
Eligibility Requirements				Rejected by at least one carrier; resident of state + family
Maximum Benefits				None stated
Premium Cap				150% standard risk for individual policies
Additional Financing				Assess insurers
Cost Containment Provisions				May design cost containment measures to make pools more cost effective
Preexisting Condition Limitation				No coverage for 6 mo. for conditions had within last 6 mo.
Benefit Package				Established by board
When Eligible for Medicare:				Not eligible for pool
Miscellaneous		Presently studying feasibility of pool		Excess to any other benefit paid

HEALTH INSURANCE  
POOLING PROVISIONS IN STATES

	<u>NEW YORK</u>	<u>NORTH CAROLINA</u>	<u>NORTH DAKOTA</u>	<u>OHIO</u>
Cite	No action to date	No action to date	§§ 26.1-08-01 to 26.1-08-12 (1983/1989)	No action to date
Based on NAIC Model?			No	
Eligibility Requirements			Rejected by at least one insurance co. within last 6 mo., resident at least 6 mo.	
Maximum Benefits			\$250,000	
Premium Cap			135% standard risk for individual policies	
Additional Financing			Assess insurers whose premium volume last year exceeded \$100,000	
Cost Containment Provisions			None specified	
Preexisting Condition Limitation			No coverage for 6 mo. for condition had within last 90 days	
Benefit Package			2 alternative packages offered	
When Eligible for Medicare:			Supplementary to Medicare	
Miscellaneous				

HEALTH INSURANCE  
POOLING PROVISIONS IN STATES

	<u>OKLAHOMA</u>	<u>OREGON</u>	<u>PENNSYLVANIA</u>	<u>RHODE ISLAND</u>
Cite	No action to date	§§ 735.600 to 735.650 (1988/1989)	No action to date	§§ 42-62-1 to 42-62-28 (1974/1990)
Based on NAIC Model?		Yes		No
Eligibility Requirements		Insurer has made adverse underwriting decision, resident of state + family		Anyone who has catastrophic medical bills (above certain measure of resources) may qualify, must apply yearly
Maximum Benefits		\$1,000,000		None
Premium Cap		Initial premiums not more than 150% standard risk for individual policies, board may adjust		Payment related to personal resources
Additional Financing		Assess insurers		State funds, assess insurers
Cost Containment Provisions		No mandated benefits statutes apply to pool coverage		None specified
Preexisting Condition Limitation		No coverage for 6 mo. for condition had within last 6 mo.		No provision
Benefit Package		Major medical expense, rules established by board, or adopt NAIC Alternative 1		No provision
When Eligible for Medicare:		Not eligible for coverage		No provision
Miscellaneous		Board may limit enrollment to keep pool losses under 1% of total medical insurance premium		Concept different from other pools listed here

HEALTH INSURANCE  
POOLING PROVISIONS IN STATES

	<u>SOUTH CAROLINA</u>	<u>SOUTH DAKOTA</u>	<u>TENNESSEE</u>	<u>TEXAS</u>
Cite	§§ 38-74-10 to 38-74-80 (1989/1990)	No action to date	§§ 56-39-101 to 56-39-121 (1986/1990)	Art. 3.77 (1989)
Based on NAIC Model?	Yes		Yes	No
Eligibility Requirements	Premium paying in excess of 150% pool rate, or application rejected, resident of state for 6 mo.		Resident of state for 1 yr., not eligible for other coverage	Determined to be substandard risk by insurer, or has condition designated as uninsurable, resident of state
Maximum Benefits	\$250,000		\$500,000	\$500,000
Premium Cap	Initial premium not more than 200% standard risk, may not exceed 300% standard individual risk		150% standard risk for individual policies	Not less than 150% standard risk nor more than 200% individual standard risk
Additional Financing	Assess insurers		Assess insurers, state funds	Assess insurers
Cost Containment Provisions	No provision		Board may include cost containment measures	May adopt rules for management of costs and managed care
Preexisting Condition Limitation	No coverage for 6 mo. for conditions had within last 6 mo.		No coverage for 6 mo. for condition had within last 6 mo.	No coverage for 6 mo. for condition had within last 6 mo.
Benefit Package	Major medical, model Alternative 2		Major medical, based on model Alternative 1, may issue other types of policies	Major medical, based on model Alternative 1
When Eligible for Medicare:	Not eligible for coverage		Eligible for Medicare supplement policy at appropriate rate	Not eligible for coverage
Miscellaneous	Persons with AIDS not eligible		Excess to all other coverage	