

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9293 HOUSE LABOR & COMMERCE

**BEST**  
**TRANSIT MIX, INC.**

February 20, 1997

Representative Mark Hodgins  
Room 110, State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Hodgins:

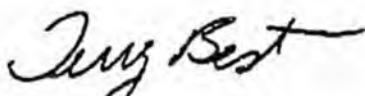
The Alaska State Home Builders Association has been working with the state legislature and the governor to pass legislation that will allow our association and other associations in the state to self insure for workers' compensation insurance through pooling arrangements.

This type of legislation has been enacted in over forty other states with fourteen of these states utilizing the pooling process. As a result, workers' compensation costs have decreased dramatically for those members of state home building associations utilizing this type of legislation. Experience has shown that when an association self insures for workers' compensation, the members of the association tend to focus on fraud and safety issues more closely than their previous for profit insurance companies, causing rates to dramatically decrease.

Workers' compensation costs are a substantial portion of the cost of building a new house in Alaska; the average workers' compensation cost for a new home in Alaska is in the area of \$4,000 to \$6,000. This cost places a burden on both the consumer and the builder of that new house. New housing is expensive in Alaska, anything we can do to reduce the cost will benefit both the consumer and the new home builders in our state. As mentioned, the workers' compensation pooling legislation we support has shown to decrease these costs through reduction in fraud, improvement in safety efforts and peer pressure.

I and hundreds of others in the home building and associated industries support this legislation. I am writing to ask that you also support this legislation. Thank you for your help on this issue of critical importance to the economic health and diversification of our great state.

Sincerely,



Terry Best  
President

# BEST

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February 20, 1997

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Room 208, State Capitol  
Juneau, Alaska 99801-1182

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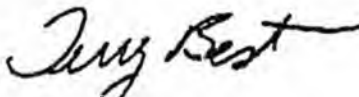
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President

# THERMO-KOOL of Alaska, Inc.

6348 Quinhagak Anchorage, Alaska 99507 • (907) 563-3644 Fax (907) 561-2758

manufacturers of

**MONO THERM**

MonoTherm  
Cellulose Insulation

**ASTRO  
MULCH**

Astro Mulch  
Hydro-Seeding Mulch

**STABLE NEWS<sup>T.M.</sup>**

Stable News  
Animal Bedding

**LAWN RE-NEW**

A Lawn Repair System

February 20, 1997

Representative Norman Rokeberg, Chairman House Labor & Commerce  
Room 24, State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Rokeberg and Committee Members:

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04/18/97

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

15:24:06

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:ANC

TCN:70654 SCHEDULED FOR:04/18/97 15:15 TO 17:15

FOR:ANC

PUBLIC HEARING

HOUSE LABOR & COMMERCE

LOCATION:ANCHORAGE

HB 199

JONATHAN

BLATTMACHR

TESTIFY

HB 199

DOUGLAS

BLATTMACHR

AK TRUST CO

TESTIFY

HB 199

BOB

MANLEY

TESTIFY

HB 116

BARBARA

HUFF TUCKNESS ✓

TESTIFY

HB 116

RENEE

MURRAY ✓

TESTIFY

HB 116

LINDA

HALL ✓

TESTIFY



Started w/ 343 participants  
893 members in Alaska

## Trustees



Harold DeShutley   Leslie Mitchell   Tim Foster   Jack C. Milarch, Jr.   Bill Chapman   Mark Carpenter   George Beall   Bob Broyles   George Rawson   Kevin McGinley   Michael Drunter   Rich Enrietta   Martin J. O'Malley, Administrator   Hudson M. Holmes, Chief Financial Officer

### Trustees Serving in 1994

**Chairman**  
Harold DeShutley  
Roswell

**Vice Chairman**  
Tim Foster  
Farmington

**Secretary/Treasurer**  
Leslie Mitchell  
Albuquerque

**Trustee**  
George Beall  
Albuquerque

**Trustee**  
Mark Carpenter  
Clovis

**Trustee**  
Michael Drunter  
Alamogordo

**Trustee**  
Rich Enrietta  
Santa Fe

**Trustee**  
Kevin McGinley  
Merrill

**Trustee**  
George Rawson  
Las Cruces

**Advisor**  
Bob Broyles  
Albuquerque

**Advisor**  
Bill Overmier  
Albuquerque

**Ex-Officio Trustee**  
Jack C. Milarch, Jr.  
Executive Vice President

**Ex-Officio Trustee**  
Bill Chapman  
President  
New Mexico Home  
Builders Association - 1994

## Audited Financial Statements December 31, 1994 and 1993

### BALANCE SHEETS

#### ASSETS

	1994	1993
Investments	\$ 18,911,656	\$ 15,345,325
Cash and cash equivalents	2,594,390	1,228,173
Premiums receivable	1,798,600	1,509,385
Interest receivable	449,456	366,019
Excess of loss reinsurance receivable	665,538	686,062
Prepaid expenses	1,448,390	593,319
Property and equipment	645,999	661,353
Deferred federal income taxes	1,078,398	550,186

**Total Assets** \$ 27,592,427 \$ 20,939,822

#### LIABILITIES AND EQUITY

Reserves for losses and ALAF	11,953,680	11,288,520
Participant deposits	4,512,827	3,683,415
Payables	660,296	971,348
Accrued expenses	731,252	364,087

**Total Liabilities** 17,858,055 16,307,370

Retained earnings	9,734,372	4,706,273
Unrealized depreciation of debt securities, less deferred federal income taxes	—	(73,821)

**Total Equity** 9,734,372 4,632,452

**Total Liabilities and Equity** \$ 27,592,427 \$ 20,939,822

**Premium Income, Not Retained Earnings** \$ 17,614,937 \$ 13,806,343  
\$ 9,734,372 \$ 4,706,273

**Ratio** 2 to 1 3 to 1

### STATEMENTS OF OPERATIONS

#### REVENUES

Premium income, not	\$ 17,614,937	\$ 13,806,343
Policy and application fees	162,780	151,970
Interest income, net	1,146,637	754,251
Net realized (losses) gains on securities	(457,726)	114,858
Net unrealized losses on securities	(1,412,136)	—

**Total Revenues** 17,054,492 14,827,422

#### ADMINISTRATIVE EXPENSES

General and administrative	1,275,752	1,001,918
Reinsurance	880,320	845,629
Interest paid to participants	393,067	—
Subsequent Injury fund	21,192	19,262
Marketing	949,053	617,372

**Total Administrative Expenses** 3,519,384 2,484,131

#### CLAIMS EXPENSES

Claims paid	4,491,723	3,912,985
Reserves	685,684	3,508,969
Claims management fees	624,661	519,388

**Total Claims Expenses** 5,802,068 7,941,342

**Income before federal income taxes and cumulative effect of accounting change** 7,733,040 4,401,949

**Provision for federal income taxes** 2,631,120 1,496,997  
**Cumulative effect of accounting change** — (142,896)

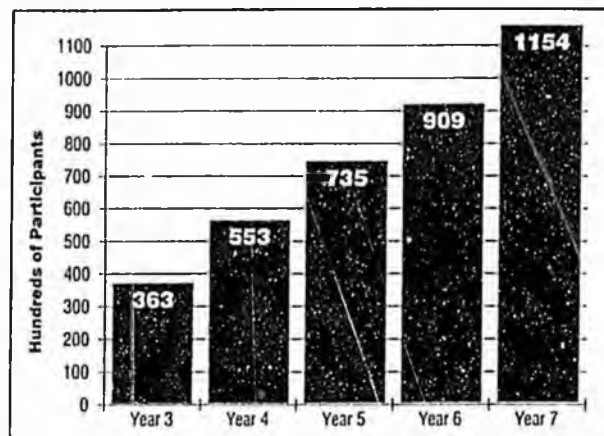
**Net Income** 29% \$ 5,101,920 \$ 3,047,848

## More Information

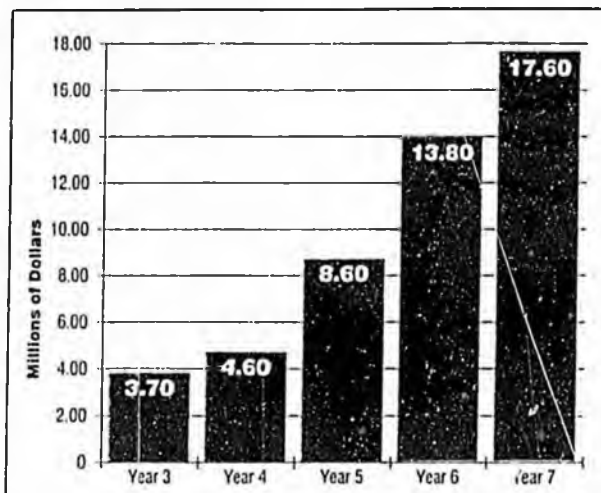
## Acknowledgements



### Participant Growth



### Premium Income, Net



*Builders Trust relies on several outside providers for services, notably:*

**Financial Affairs**  
*Beeson and Gallegos, P.C.*

**Banking**  
*Sunwest Bank of Albuquerque, N.A.*

**Investment Responsibilities**  
*Dean Witter - Reynolds, Inc.*

**Actuarial Analysis**  
*The Wyatt Company*

**Workers' Compensation Administration**  
*Gerard B. Stuyvesant, Director*

**Excess Carrier, Specific**  
*National Union Fire Insurance Co.*

**Excess Carrier, Aggregate**  
*Sphere - Drake Insurance Co.*

**Claims Servicing**  
*Hospital Services Corporation*

**Marketing & Underwriting**  
*Letcher, Golden & Associates*



(505) 345-3477 • Fax (505) 344-7245  
1-800-640-3369 (Outside Albuquerque)  
5931 Office Boulevard, NE • P.O. Box 91330  
Albuquerque, NM 87199

## 1994 Annual Report Mission Statement

Builders Trust of New Mexico, as an affiliate of New Mexico Home Builders Association, has the mission of providing a long term stable solution to workers' compensation obligations and liabilities for members of the New Mexico Home Builders Association who are participants in the Builders Trust group self insured fund. Our philosophy is to maximize value to our members while promoting safety to our members and their employees. We strive to maintain a favorable business climate as it relates to workers' compensation through active governmental affairs participation.

### Our Fund

Builders Trust of New Mexico, Affiliated with New Mexico Home Builders Association, experienced significant growth in participation, improved loss ratio results and overall strengthening of our financial condition during the 1994 Fund Year. Consequently we are well positioned to meet the influx of competition returning to the New Mexico marketplace.

Combined ratio is the most commonly used measure of the financial stability of an insurance operation. It is the sum of the loss ratio and expense ratio (overhead). A combined ratio over 100% indicates a company is losing money and one below 100% indicates profit. The average combined ratio for workers' compensation companies nationwide in 1994 was 101%. Builders Trust significantly outperformed the insurance industry by posting an impressive combined ratio of 73%.

It is this rock solid financial strength which will insure that Builders Trust can continue to accomplish its mission of providing a long term stable solution to workers' compensation obligations and liabilities for members of the New Mexico Home Builders Association.

To better serve our Participants, we increased our staff in the Safety and Loss Control, Underwriting and Accounting departments. We also returned premium to Participants by paying interest on deposits, lowering deposit requirements and providing larger tier level discounts.

We are pleased to report that once again the lobbying efforts of the New Mexico Home Builders Association were successful in warding off any attempts by special interests to undermine workers' compensation law now in place.

The Board of Trustees and staff of Builders Trust thank you for your participation. Your loyalty, support and attention to safety on your job sites have helped us build one of the strongest workers' compensation programs in New Mexico, as well as the nation.

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

APR 21 1997

TONY KNOWLES, GOVERNOR

P.O. BOX 110805  
JUNEAU, ALASKA 99811-0805  
PHONE: (907) 465-2515  
FAX: (907) 465-3482  
TDD: (907) 465-5437

Date: April 16, 1997

To: Home Builders Association

From: Marianne Hurke, Director  
Division of Insurance  
Department of Commerce and  
Economic Development

Paul Gross, Director  
Division of Workers' Compensation  
Department of Labor

As discussed on the conference call late Thursday, we have prepared a concept memorandum for consideration by your association. The memorandum discusses those provisions that we consider necessary to protect the workers and assure the viability of a group approach to workers' compensation. We would be pleased to discuss the concepts with you.

MRB/pb1436a.ins  
Enclosure

## WORKERS' COMPENSATION ASSOCIATION INSURER

We have prepared a conceptual approach that may represent a consensus approach to the desire of some trade associations to try an alternative approach to current means to provide workers' compensation coverage to their members and the state's regulatory concerns.

The insurance code, Alaska Statute 21, is a comprehensive compendium of insurance best practices. Founded upon a time tested regulatory framework, the insurance code provides a balance between protections for insureds, claimants, and the public. The primary regulatory concern with the workers' compensation group self-insurance legislation has been the lack of a comprehensive regulatory framework that incorporated best practices long recognized in Alaska. By incorporating these best practices for workers' compensation association insurers, the following concerns are addressed:

1. Prudent investment practices
2. Statutory accounting practices
3. Fair trade acts and practices standards
4. Standardized reporting requirements
5. Fair examination procedures
6. Comprehensive receivership procedures
7. Standard trust administration
8. Due process protections for insurers (the trade associations in this instance)
9. Use of an attorney-in-fact approach
10. Since the home builders have expressed that they do not want to put cash into the group, consideration could be given to a cash flow approach, i.e., require 50 percent of yearly premium up front with monthly premium payments and monthly payroll audits.
11. To assure financial net worth of members, audited financial statements to be submitted to verify combined net worth of \$1,000,000.
12. Portion, 25 percent, of combined net worth in unrestricted cash.
13. Clear statutory requirements for membership such as time in same or similar business, continuous workers' compensation coverage, acceptable experience rating, etc.

Appropriate statutory language for all the provisions of numbers 1 through 9 are contained in Title 21. We again suggest that the existing provision of Chapter 75 be reviewed and incorporated in the proposed legislation.

We urge a responsible balance between the financial resources of a trade association's members and the financial responsibility to pay statutory workers' compensation benefits to members' injured employees substitutes cash flow and assessments for deficiencies for most of the capital and surplus required of traditional insurers. In lieu of the \$1,000,000 basic capital or guarantee surplus plus \$1,000,000 additional surplus required of a new domestic insurer, or \$1,000,000 basic surplus and \$500,000 additional surplus required of a new domestic reciprocal, our conceptual approach requires only the \$300,000 deposit required of all insurers, a 50 percent deposit premium, and combined net assets of \$1,000,000, of which \$250,000 must be in cash. Payrolls would be reported monthly and premiums charged monthly based upon the monthly payrolls. Profits may be distributed once claims have matured and reserves are determined to be adequate. Subscribers should be a minimum of 20 employers and a minimum of 150 employees.

The express assumption supporting reduced capital and surplus is that a well capitalized homogeneous group of experienced employers with a proven record of success in business in Alaska, and superior workers' compensation experience in Alaska, will have a better than expected loss experience over time and, with even greater emphasis on work place safety, can further reduce risk.

We think that all would agree that it is unacceptable to leave innocent Alaska employees and their families at risk if this experiment were not to succeed. To minimize this risk, our concept provides for two pilot workers' compensation association insurers, and a mechanism to advance money to a receiver to pay claims if assets and assessments provide an inadequate cash flow. Additionally, provision for adequate funding in the event of receivership is essential.

Finally, if the workers' compensation association insurer concept proves successful, the employers may wish to use retained earnings to convert to a traditional insurer in order to extinguish liability for assessments.

We recognize that some may feel that our concept destines these insurers to fail because they would be inadequately capitalized. Our intent was to develop a consensus around what we considered to be the lowest practical capitalization arrangement that would give an alternative insurance mechanism a reasonable chance to succeed.

As currently proposed, Alaska Statute 23.30 would have to be amended in order for workers' compensation self-insurance groups to be recognized and to assure proper regulation is maintained.

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 5, 1997

FURTHER REFERRALS:

Date of Committee Action: 4/23/97

The LABOR AND COMMERCE Committee considered:

HB 116

HOUSE BILL NO. 116

WORKERS COMPENSATION SELF-INSURANCE GROUP

"An Act relating to workers' compensation self-insurance."

recommends it be replaced  
with the following committee substitute

CSHB 116(LYC)

the same title  
 a new title

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

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) DOL, DCED

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

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

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

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>John Casadevall</i>			<input checked="" type="checkbox"/>	
<i>Joe Ryan</i>			<input checked="" type="checkbox"/>	
<i>Bill Hudson</i>	<input checked="" type="checkbox"/>			
<i>Ann Kately</i>				<input checked="" type="checkbox"/>

CHAIR'S SIGNATURE *Ann Kately*

4-23-97



Official Business

**COMMITTEE:**  
HOUSE LABOR AND COMMERCE COMMITTEE

**DATE:** April 18, 1997

**Subject of meeting:**  
HB 116 - WORKERS COMPENSATION SELF-INSURANCE GROUP

# SIGN-IN

PLEASE PRINT!

NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Steve Wisdom	PO Box 4184 Homer	1235 6025	ASHBA	Yes
Bill Taylor	2340 Loren Cir Anchorage <sup>99516</sup>	345-0371	ASHBA	Yes
Alan Wilson	P.O. Box 22797 Juneau <sup>99802</sup>	586-2240	ASHBA	Yes
Richard Day	PO Box 210165 Anchorage <sup>99521</sup>	790 4244	ASHBA	No
Marianne Burke	508 9th Floor Juneau	465-2515	Div of Insurance	Yes
Paul Grossi	Dept. of Labor	465-2790	W. Comp.	yes
Sarah McNaig Gme	508 9th Floor	465-4613	Division of Ins	no
Robert [unclear]	Box 91443 Anchorage <sup>99509</sup>	562-3770	ASMPA	Yes
John G. [unclear]	3328 Fritz Cove Rd Juneau	785-0172	NAII	Yes
Dick Block	360 W BENSON #300 Anchorage	5635121	ANIC	Yes

TOTAL P. 01

04-18-1997 11:10AM FROM 9074652267 TO 2040 P. 01

04/18/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150

15:26:56 PARTICIPANT LIST (TESTIFIERS ONLY) BY:JNU

TCN:70654 SCHEDULED FOR:04/18/97 15:15 TO 17:15 FOR:ALL

PUBLIC HEARING HOUSE LABOR & COMMERCE

LOCATION: ANCHORAGE

✓ HB 199	JONATHAN	BLATTMACHR		TESTIFY
✓ HB 199	DOUGLAS	BLATTMACHR	AK TRUST CO	TESTIFY
✓ HB 199	BOB	MANLEY		TESTIFY
HB 116	BARBARA	HUFF TUCKNESS		TESTIFY
HB 116	RENEE	MURRAY		TESTIFY
HB 116	LINDA	HALL		TESTIFY

LOCATION: FAIRBANKS

✓ HB 199	MR.	RICH	HOMPESCH	ATTORNEY	TESTIFY
----------	-----	------	----------	----------	---------

*insert*

A M E N D M E N T |

OFFERED IN THE HOUSE BY REPRESENTATIVE KOTT  
TO: CSHB 116( ) (Draft 0-LS0463\H, Dated 4/16/97)

- 1 Page 10, lines 5 - 9:
- 2 Delete all material.
  
- 3 Page 10, line 10:
- 4 Delete "(2)"
  
- 5 Page 10, line 13:
- 6 Delete "for"
  
- 7 Page 10, lines 14 - 15:
- 8 Delete all material and insert:
- 9 "(1) for known claims and associated expenses;
- 10 (2) for claims incurred but not reported and associated expenses; and
- 11 (3) consisting of a deposit by each member of at least 25 percent of
- 12 that member's estimated annual premium before the start of the group's fiscal year;
- 13 a deposit made under this paragraph is in addition to the payment required under
- 14 AS 21.47.030(a)(10) and shall be refunded to a member who leaves the group if the
- 15 group does not have a deficiency and is not insolvent."
  
- 16 Page 11, line 5:
- 17 Delete "AS 21.47.160(a)(1)"
- 18 Insert "AS 21.47.160(b)(3)"

CS FOR HOUSE BILL NO. 116( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES KOTT, Hudson, Foster, Berkowitz, Hodgins, Kelly, Dyson, Davis, Phillips, Kohring, Ogan, Green, Elton

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to workers' compensation self-insurance."

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

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

4 Chapter 47. Workers' Compensation Self-insurance Groups.

5 Sec. 21.47.010. Scope. The provisions of this chapter apply to workers'  
6 compensation self-insurance groups. This chapter does not apply to public employees  
7 or governmental entities. A workers' compensation self-insurance group that is issued  
8 a certificate of approval by the director may not be considered to be an insurer or an  
9 insurance company and is not subject to the provisions of the insurance laws of this  
10 title except as otherwise provided in this chapter.

11 Sec. 21.47.020. Authority to act as a workers' compensation self-insurance  
12 group. A person may not act as a workers' compensation self-insurance group unless  
13 the person has been issued a certificate of approval by the director.

14 Sec. 21.47.030. Required qualifications. (a) A proposed workers'  
15 compensation self-insurance group shall file with the director an application for a

1 certificate of approval accompanied by a nonrefundable filing fee established by the  
2 director under AS 21.06.250. The application must include the group's name, location  
3 of its principal office, date of organization, name and address of each member, and  
4 other information that the director may reasonably require, together with the following:

- 5 (1) proof of compliance with the provisions of (b) of this section;  
6 (2) a copy of the group's articles of association, if any;  
7 (3) a copy of agreements with the administrator and with any service  
8 company;  
9 (4) a copy of the bylaws of the proposed group;  
10 (5) a copy of the agreement between the group and each member  
11 securing the payment of workers' compensation benefits; the agreement must include  
12 a provision for payment of assessments as provided under AS 21.47.180;  
13 (6) designation of the initial board of trustees and administrator;  
14 (7) the address in this state where the books and records of the group  
15 shall be maintained at all times;  
16 (8) a pro forma financial statement on a form acceptable to the director  
17 showing the financial ability of the group to pay the workers' compensation obligations  
18 of its members;  
19 (9) proof of the group's qualification under 26 U.S.C. 501(c)(6) and  
20 exemption from taxation under 26 U.S.C. 501(a); and  
21 (10) proof of payment to the group by each member of not less than  
22 25 percent of that member's first year estimated annual net premium on a date  
23 prescribed by the director; payment shall be considered to be part of the first year  
24 premium payment of a member if the proposed group is granted a certificate of  
25 approval.

26 (b) To obtain and to maintain its certificate of approval, a workers'  
27 compensation self-insurance group shall meet the following requirements, as well as  
28 other requirements established by law:

- 29 (1) a combined net worth of all members of the group of at least  
30 \$1,000,000;  
31 (2) security in the amount of \$450,000 that shall be provided by either

1 cash, a surety bond, security deposit, or financial security endorsement or any  
 2 combination of cash, bond, deposit, or endorsement; if a surety bond is used to meet  
 3 the security requirement, it shall be issued by a corporate surety company authorized  
 4 to transact business in this state; if a security deposit is used to meet the security  
 5 requirement, securities shall be limited to bonds or other evidences of indebtedness  
 6 issued, assumed, or guaranteed by the United States of America, or by an agency or  
 7 instrumentality of it; certificates of deposit in a federally insured bank; shares or  
 8 savings deposits in a federally insured savings and loan association or credit union; or  
 9 any bond or security issued by a state of the United States of America and backed by  
 10 the full faith and credit of the state; securities shall be deposited with the director and  
 11 assigned to and made negotiable by the commissioner of labor under a trust document  
 12 acceptable to the director; interest accruing on a negotiable security shall be collected  
 13 and transmitted to the depositor, provided the depositor is not in default; a financial  
 14 security endorsement, issued as part of an acceptable excess insurance contract, may  
 15 be used to meet all or part of the security requirement; the cash, bond, security deposit,  
 16 or financial security endorsement must be

17 (A) for the benefit of the state solely to pay workers'  
 18 compensation claims and associated expenses; and

19 *Group not* (B) payable upon the failure of the group to pay workers'  
 20 compensation benefits that it is legally obligated to pay;

21 (3) specific and aggregate excess insurance in a form, in an amount,  
 22 and by an insurance company acceptable to the director; the director may establish  
 23 minimum requirements for the amount of specific and aggregate excess insurance  
 24 based on size differences among groups, types of employment, years in existence, and  
 25 other relevant factors, and may permit a group to meet this requirement by placing in  
 26 a designated depository securities of the type referred to in (2) of this subsection;

27 (4) an estimated annual standard premium of at least \$500,000 during  
 28 a group's first year of operation; in subsequent years, the annual standard premium  
 29 must be at least \$750,000;

30 (5) an indemnity agreement jointly and severally binding the group and  
 31 each member of the group to meet the workers' compensation obligations of each

1 member; the indemnity agreement must be in a form prescribed by the director and  
2 must include minimum uniform substantive provisions prescribed by the director;  
3 subject to the director's approval, a group may add other provisions needed because  
4 of its particular circumstances;

5 (6) a fidelity bond and an errors and omissions insurance policy for the  
6 administrator in a form and amount prescribed by the director; and

7 (7) a fidelity bond and an errors and omissions insurance policy for the  
8 service company in a form and amount prescribed by the director; the director may  
9 also require the service company providing claim services to furnish a performance  
10 bond in a form and amount prescribed by the director.

11 (c) A group shall notify the director of any change in the information required  
12 to be filed under (a) of this section or in the manner of its compliance with (b) of this  
13 section not later than 30 days after the change.

14 (d) The director shall

15 (1) evaluate the information provided by the application required to be  
16 filed under (a) of this section to assure that gaps in funding do not exist and that funds  
17 necessary to pay workers' compensation benefits will be available on a timely basis;

18 (2) act upon a completed application for a certificate of approval within  
19 60 days; if, because of the number of applications, the director is unable to act upon  
20 an application within this period, the director may have an additional 60 days to act  
21 on an application;

22 (3) issue to the group a certificate of approval upon finding that the  
23 proposed group has met all requirements, or the director shall issue an order refusing  
24 the certificate setting out reasons for refusal upon finding that the proposed group does  
25 not meet all requirements of this chapter.

26 (e) A workers' compensation self-insurance group shall be considered to have  
27 appointed the director as its attorney to receive service of legal process issued against  
28 it in this state. The appointment is irrevocable, binds any successor in interest, and  
29 remains in effect as long as there is in this state an obligation or liability of the group  
30 for workers' compensation benefits.

31 **Sec. 21.47.035. Premium tax.** A group is subject to the premium tax imposed

1 on domestic insurers under AS 21.09.210(b)(1).

2 **Sec. 21.47.040. Certificate of approval; termination.** (a) A certificate of  
3 approval issued by the director to a workers' compensation self-insurance group  
4 authorizes the group to provide workers' compensation benefits as required under  
5 AS 23.30. The certificate of approval remains in effect until terminated at the request  
6 of the group or revoked by the director under AS 21.47.200.

7 (b) The director may not grant the request of a group to terminate its  
8 certificate of approval unless the group has insured or reinsured all incurred workers'  
9 compensation obligations with an authorized insurer under an agreement filed with and  
10 approved in writing by the director. Workers' compensation obligations must include  
11 both known claims and associated expenses and claims incurred but not reported and  
12 associated expenses. Subject to the approval of the director, a group may merge with  
13 another group engaged in the same or similar type of business only if the resulting  
14 group assumes in full all obligations of the merging groups. The director may hold  
15 a hearing on the merger and shall hold a hearing if any party, including a member of  
16 either group, requests a hearing.

17 **Sec. 21.47.050. Examinations.** The director may examine the affairs,  
18 transactions, accounts, records, and assets and liabilities of a group as often as the  
19 director requires. The expense of an examination shall be assessed against the group  
20 in the same manner that an insurer is assessed for an examination.

21 **Sec. 21.47.060. Board of trustees: membership, powers, duties, and**  
22 **prohibitions; accounts.** (a) A group shall be operated by a board of trustees of not  
23 less than five persons whom the members of a group elect for stated terms of office.  
24 At least two-thirds of the trustees shall be employees, officers, or directors of members  
25 of the group. The group's administrator, service company, or an owner, officer,  
26 employee of, or another person affiliated with the administrator or service company  
27 may not serve on the board of trustees of the group. A trustee shall be a resident of  
28 this state or an officer of a corporation authorized to do business in this state. The  
29 board of trustees of a group shall ensure that all claims are paid promptly and take all  
30 necessary precautions to safeguard the assets of the group.

31 (b) The board of trustees shall

1 (1) be responsible for all money collected or disbursed from the group  
2 and segregate all money into a claims fund account and an administrative fund  
3 account; at least 70 percent of the net premium shall be placed into a designated  
4 depository for the sole purpose of paying claims, allocated claims expenses,  
5 reinsurance or excess insurance, and special fund contributions, including second injury  
6 and other loss related funds; this shall be called the "claims fund account"; the  
7 remaining net premium shall be placed into a designated depository for the payment  
8 of taxes, general regulatory fees and assessments, and administrative costs; this shall  
9 be called the "administrative fund account"; the director may approve an administrative  
10 fund account of more than 30 percent and a claims fund account of less than 70  
11 percent only if the group shows to the director's satisfaction that

12 (A) more than 30 percent is needed for an effective safety and  
13 loss control program; or

14 (B) the group's aggregate excess insurance attaches at less than  
15 70 percent;

16 (2) maintain minutes of its meetings and make the minutes available  
17 to the director;

18 (3) designate an administrator to carry out the policies established by  
19 the board of trustees and delineate in the written minutes of its meetings the areas of  
20 authority the board of trustees delegates to the administrator;

21 (4) retain an independent certified public accountant to prepare the  
22 statement of financial condition required under AS 21.47.100.

23 (c) The board of trustees may not

24 (1) extend credit to individual members for payment of a premium  
25 except under a payment plan approved by the director; or

26 (2) borrow money from the group or in the name of the group, except  
27 in the ordinary course of business, without first advising the director of the nature and  
28 purpose of the loan and obtaining prior approval from the director.

29 **Sec. 21.47.070. Group membership; termination; liability.** (a) An  
30 employer joining a workers' compensation self-insurance group after the group has  
31 been issued a certificate of approval shall (1) submit an application for membership

1 to the board of trustees or its administrator; and (2) enter into the indemnity agreement  
2 required under AS 21.47.020(b)(5); membership may not take effect earlier than each  
3 member's date of approval. An application for membership and approval of the  
4 application shall be maintained as a permanent record by the board of trustees.

5 (b) Individual membership in a group is subject to cancellation by the group  
6 under the bylaws of the group. In addition, individual members may elect to terminate  
7 their participation in the group. The group shall notify the director and the division  
8 of workers' compensation regarding the termination or cancellation of a membership.  
9 Notice shall be given within 10 days after the termination or cancellation.

10 (c) The group shall pay all workers' compensation benefits for which a  
11 member incurs liability during its period of membership. A member who elects to  
12 terminate its membership or is cancelled by a group remains liable for any workers'  
13 compensation obligations of the group and its members that were incurred during the  
14 cancelled or terminated member's period of membership.

15 (d) A group member is not relieved of its workers' compensation liabilities  
16 incurred during its period of membership except through payment by the group or the  
17 member of workers' compensation benefits required under AS 23.30.

18 (e) The insolvency or bankruptcy of a member does not relieve the group or  
19 another member of liability for the payment of any workers' compensation benefits  
20 incurred during the insolvent or bankrupt member's period of membership.

21 **Sec. 21.47.080. Service companies.** (a) A service company or its employees,  
22 officers, or directors may not be an employee, officer, or director of, or have either a  
23 direct or indirect financial interest in, an administrator. An administrator or its  
24 employees, officers, or directors may not be an employee, officer, or director of, or  
25 have either a direct or indirect financial interest in, a service company.

26 (b) A service contract must state that unless the director permits otherwise, the  
27 service company shall handle, to conclusion, all workers' compensation claims and  
28 other obligations incurred during the contract period.

29 **Sec. 21.47.090. Licensing of agent.** Except for a salaried employee of a  
30 group, its administrator, or its service company, a person soliciting membership for a  
31 workers' compensation self-insurance group must be licensed as provided under

1 AS 21.27.

2 **Sec. 21.47.100. Financial statements and other reports.** (a) A group shall  
3 submit to the director a statement of the financial condition of the group that is  
4 annually audited by an independent certified public accountant on or before the last  
5 day of the sixth month following the end of the group's fiscal year. Upon request, the  
6 director shall allow a 60 day extension of the deadline described in this subsection.  
7 The financial statement must be on a form prescribed by the director and must include  
8 actuarially appropriate reserves, known as liabilities, for

- 9 (1) known claims and associated expenses;  
10 (2) claims incurred but not reported and associated expenses;  
11 (3) unearned premiums; and  
12 (4) bad debts.

13 (b) The actuarial opinion required under (a) of this section shall be given by  
14 a member of the American Academy of Actuaries or other qualified loss reserve  
15 specialist as defined in the annual statement adopted by the National Association of  
16 Insurance Commissioners.

17 (c) A person may not make an untrue statement of a material fact, or omit to  
18 state a material fact necessary in order to make the statement made, in light of the  
19 circumstances under which it is made, not misleading, in connection with the  
20 solicitation of membership in a group.

21 (d) The director may prescribe the format and frequency of other required  
22 reports including payroll audit reports, summary loss reports, and quarterly financial  
23 statements.

24 **Sec. 21.47.110. Required second injury contribution.** A group is subject to  
25 the required contribution provisions of the second injury fund under AS 23.30.040.  
26 If an employee of a member of a group suffers a compensable injury, the member  
27 shall contribute to the second injury fund as required under AS 23.30.040.

28 **Sec. 21.47.120. Misrepresentation prohibited.** A person may not make a  
29 material misrepresentation or omission of a material fact in connection with the  
30 solicitation of membership of a group.

31 **Sec. 21.47.130. Investments.** Funds not needed by a group for current

1 obligations may be invested by the board of trustees as provided under AS 21.21.

2 **Sec. 21.47.140. Rates and reporting of rates.** (a) A workers' compensation  
3 self-insurance group shall adhere to the uniform classification system, uniform  
4 experience rating plan, and manual rules designated by the director.

5 (b) Premium contributions to the group shall be determined by applying the  
6 manual rates and rules to the appropriate classification of a member. Premium  
7 contributions shall be adjusted by a member's experience credit or debit. Subject to  
8 approval by the director, the premium contributions may also be reduced by an  
9 advance premium discount reflecting the group's expense levels and loss experience.

10 (c) Notwithstanding (b) of this section, a group may apply to the director for  
11 permission to make its own rates. Rates established under this subsection shall be  
12 based on at least five years of the group's experience.

13 (d) A group shall use the premium rates designated by the director plus an  
14 additional amount representing the member's portion of estimated expenses. A group  
15 may contract with an advisory organization approved by the director for assistance in  
16 developing appropriate rates.

17 (e) A group shall be audited at least annually by an auditor acceptable to the  
18 director to verify proper classifications, experience rating, payroll, and rates. A report  
19 of the audit shall be filed with the director in a form acceptable to the director. A  
20 group or a member of a group may request a hearing on objections to the  
21 classifications. If the director determines that as a result of an improper classification  
22 a member's premium contribution is insufficient, the director shall order the group to  
23 assess that member an amount equal to the deficiency. If the director determines that  
24 as a result of an improper classification a member's premium is excessive, the director  
25 shall order the group to refund to the member the excess premium collected. The  
26 audit required under this subsection shall be at the expense of the group.

27 **Sec. 21.47.150. Refunds.** (a) If approved by the director, money for a fiscal  
28 year in excess of the amount necessary to fund all obligations for that fiscal year may  
29 be declared to be refundable by the board of trustees not less than 12 months after the  
30 end of the fiscal year.

31 (b) A member shall be given a written description of the refund plan at the

1 time of application for membership. A refund for any fiscal year shall be paid only  
2 to those employers who remain participants in the group for the entire fiscal year.

3 **Sec. 21.47.160. Premium payment; reserves.** (a) A group shall establish to  
4 the satisfaction of the director a premium payment plan; the plan must include

5 (1) a deposit by each member of at least 25 percent of that member's  
6 estimated annual premium before the start of the group's fiscal year; a deposit made  
7 under this paragraph is in addition to the payment required under AS 21.47.030(a)(10)  
8 and shall be refunded to a member who leaves the group if the group does not have  
9 a deficiency and is not insolvent; and

10 (2) payment of the balance of each member's annual premium in  
11 monthly or quarterly installments.

12 (b) A group shall establish and maintain actuarially appropriate loss reserves  
13 that must include reserves for

14 (1) known claims and associated expenses; and

15 (2) claims incurred but not reported and associated expenses.

16 (c) A group shall establish and maintain bad debt reserves based on the  
17 historical experience of the group or other groups.

18 **Sec. 21.47.170. Workers' compensation self-insurance guaranty fund.** A  
19 group shall establish a workers' compensation self-insurance guaranty fund. The  
20 purpose of the fund is to prevent insolvency and to allow a group to discharge its legal  
21 liabilities and other obligations. In addition to any other deposit requirement under  
22 this chapter, each member of the group shall make a one time only deposit of five  
23 percent of that member's estimated annual premium before the start of the member's  
24 first fiscal year with the group. A deposit made under this section shall be refunded  
25 to a member who leaves the group if the group does not have a deficiency and is not  
26 insolvent.

27 **Sec. 21.47.180. Deficits and insolvencies.** (a) If the assets of a group are at  
28 any time insufficient to enable the group to discharge its legal liabilities and other  
29 obligations and to maintain the reserves required of it under this chapter, it shall  
30 immediately make up the deficiency or levy an assessment upon the group members  
31 for the amount needed to make up the deficiency.

1 (b) In the event of a deficiency in any fiscal year, the deficiency shall be made  
2 up immediately, either from

3 (1) surplus from a fiscal year other than the current fiscal year;

4 (2) administrative funds;

5 (3) funds collected under AS 21.47.160(a)(1);

6 (4) funds collected under AS 21.47.170;

7 (5) assessment of the membership, if ordered by the group and funds  
8 described under (3) and (4) of this subsection are exhausted; or

9 (6) an alternate method that the director may approve or direct.

10 (c) The director shall be notified before a transfer of surplus funds from one  
11 fiscal year to another. If a group fails to assess its members or to otherwise make up  
12 a deficit within 30 days, the director shall order the group to make up the deficit.

13 (d) If a group fails to make the required assessment of its members within 30  
14 days after the director orders it to do so, or if the deficiency is not fully made up  
15 within 60 days after the date on which the assessment is made, or within a longer  
16 period of time that is specified by the director, the group shall be considered to be  
17 insolvent.

18 (e) The director shall proceed against an insolvent group in the same manner  
19 as the director would proceed against an insolvent domestic insurer in this state as  
20 provided under AS 21.78.

21 (f) In the event of the liquidation of a group, the director shall levy an  
22 assessment upon its members in an amount the director determines to be necessary to  
23 discharge all liabilities of the group, including the reasonable cost of liquidation.

24 **Sec. 21.47.190. Penalties.** (a) After notice and opportunity for a hearing, the  
25 director may impose a civil penalty on a person or group found to be in violation of  
26 any provision of this chapter. The civil penalty may not exceed \$500 for each act or  
27 violation and may not exceed \$5,000 in the aggregate.

28 (b) After notice and opportunity for a hearing, the director may issue an order  
29 requiring a person or group to cease and desist from engaging in an act or practice  
30 found to be in violation of any provision of this chapter.

31 (c) Upon a finding, after notice and opportunity for a hearing, that a person

1 or group has knowingly violated a cease and desist order, the director may

2 ~~(1) impose a civil penalty of not more than \$5,000~~ <sup>10,000</sup> for each act or  
3 ~~violation of the order not to exceed an aggregate amount of \$25,000;~~ <sup>100,000</sup> or

4 (2) revoke the group's certificate of approval or any insurance license  
5 held by the person.

6 (d) In this section, "knowingly" has the meaning given in AS 11.81.900.

7 **Sec. 21.47.200. Revocation of certificate of approval.** (a) After notice and  
8 opportunity for a hearing, the director may revoke a group's certificate of approval if  
9 the group

10 (1) is found to be insolvent;

11 (2) fails to pay any premium tax, regulatory fee or assessment, or  
12 special fund contribution imposed upon the group; or

13 (3) fails to comply with any of the provisions of this chapter or with  
14 any lawful order of the director within the time prescribed.

15 (b) In addition to (a) of this section, the director may revoke a group's  
16 certificate of approval if, after notice and opportunity for hearing, the director finds  
17 that

18 (1) a certificate of approval that was issued to the group was obtained  
19 by fraud;

20 (2) there was a material misrepresentation in the application for the  
21 certificate of approval; or

22 (3) the group or its administrator has misappropriated, converted,  
23 illegally withheld, or refused to pay over upon proper demand any money that belongs  
24 to a member, an employee of a member, or a person otherwise entitled to it, and that  
25 has been entrusted to the group or its administrator in its fiduciary capacities.

26 **Sec. 21.47.500. Definitions.** In this chapter,

27 (1) "administrator" means an individual, partnership, or corporation  
28 engaged by a workers' compensation self-insurance group's board of trustees to carry  
29 out the policies established by the group's board of trustees and to provide day-to-day  
30 management of the group;

31 (2) "insolvent" or "insolvency" means the inability of a workers'

1 compensation self-insurance group to pay its outstanding lawful obligations as the  
 2 obligations mature in the regular course of business, as may be shown either by an  
 3 excess of its required reserves and other liabilities over its assets or by its not having  
 4 sufficient assets to reinsure all of its outstanding liabilities after paying all accrued  
 5 claims owed by the group;

6 (3) "net premium" means premium derived from standard premium  
 7 adjusted by an advance premium discount;

8 (4) "service company" means a person that provides services not  
 9 provided by the administrator, including

- 10 (A) claims adjustment;
- 11 (B) safety engineering;
- 12 (C) compilation of statistics and the preparation of premium,  
 13 loss, and tax reports;
- 14 (D) preparation of required self-insurance reports;
- 15 (E) development of members' assessments and fees; and
- 16 (F) administration of a claim fund;

17 (5) "standard premium" means the premium derived from the manual  
 18 rates adjusted by experience modification factors but before advance premium  
 19 discounts;

20 (6) "workers' compensation self-insurance group" or "group" means a  
 21 not-for-profit association that has qualified as a trade organization under 26 U.S.C.  
 22 501(c)(6) (Internal Revenue Code) and is exempt from taxation under 26 U.S.C. 501(a)  
 23 (Internal Revenue Code), and consists of 10 or more employers who are engaged in  
 24 the same or similar type of business, who are members of the same bona fide trade or  
 25 professional association that has been in existence for not less than five years, and who  
 26 enter into agreements to pool their liabilities for workers' compensation benefits in this  
 27 state.

28 \* Sec. 2. AS 21.80.020(a) is amended to read:

29 (a) This chapter applies to a workers' compensation self-insurance group  
 30 formed under AS 21.47 and to all kinds of direct insurance written by an admitted  
 31 insurer except life, title, surety, health, credit, and mortgage guaranty insurance.

*dropped say  
 sec 21.80  
 not needed*

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
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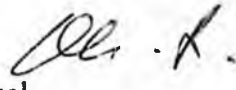
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

February 7, 1997

**SUBJECT:** Sectional Summary of HB 116. (Work Order No. 20-LS0463A)

**TO:** Representative Pete Kott  
ATTN: George

**FROM:** Michael F. Ford   
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Adds a new chapter regarding groups that are allowed to self-insure for purposes of workers' compensation. Each section will be addressed in turn.

Sec. 21.47.010 - Provides that AS 21.47 applies only to workers' compensation self-insurance groups and not to public employees or governmental entities. Also provides that a workers' compensation group is not considered an insurer and is not subject to the insurance laws of AS 21.

Sec. 21.47.020 - Requires a certificate from the director of the division of insurance before a person can act as a self-insurance group.

Sec. 21.47.030 - Establishes the qualifications in order to become an approved self-insurance group, including a filing fee, net worth, bonding and security, and detailed information about the group's members. Requires the director to review and act on an application for a certificate of approval.

Sec. 21.47.040 - Provides for issuance of a certificate of approval to provide workers' compensation benefits, and for termination and revocation of a certificate.

Sec. 21.47.050 - Provides for examination of a self-insurance group by the director.

Representative Pete Kott  
February 7, 1997  
Page 2

Sec. 21.47.060 - Establishes a five member board for a self-insurance group. Also specifies membership on the board, powers and duties of the board, and imposes certain limits on the board.

Sec. 21.47.070 - Establishes a method for joining a self-insurance group, provides for membership cancellation, for payment of benefits by a group after a member terminates membership, and for continuing liability of a member for incurred benefits.

Sec. 21.47.080 - Imposes restrictions on service companies who handle workers' compensation claims for a self-insured group.

Sec. 21.47.090 - Imposes licensing requirements on agents who solicit membership for a self-insurance group.

Sec. 21.47.100 - Establishes the financial reporting requirements for self-insurance groups, including form, content, and frequency of reporting.

Sec. 21.47.110 - Requires a self-insurance group to make a contribution to the second injury fund as required by AS 23.30.040.

Sec. 21.47.120 - Prohibits material misrepresentation in connection with solicitation of membership in a self-insurance group.

Sec. 21.47.130 - Provides that a self-insurance group may invest funds as allowed under AS 21.21.

Sec. 21.47.140 - Provides for regulation of premium rates and for reporting of rates, by a self-insurance group. Provides for annual audits and gives authority to the director to order an assessment for a deficiency or to order a refund to a member for excess premiums.

Sec. 21.47.150 - Provides for refunds to members, when a self-insurance group has funds in excess of the amount necessary to fund all obligations.

Sec. 21.47.160 - Provides for establishment of a plan for payment of premiums by members and for establishment of loss reserves.

Sec. 21.47.170 - Provides a method for handling deficits by a self-insurance group, and for declaration of insolvency and liquidation of a group.

Sec. 21.47.180 - Provides for civil penalties for a person or group who violates a provision of AS 21.47 and for revocation of a group's certificate of approval.

Representative Pete Kott  
February 7, 1997  
Page 3

Sec. 21.47.190 - Provides that the director may revoke a group's certificate of approval for certain reasons, after notice and opportunity for a hearing.

Sec. 21.47.500 - Definitions.

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97-093.jdr

# STATE OF ALASKA

MAR 05 1997

TONY KNOWLES, GOVERNOR

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

P.O. BOX 110805  
JUNEAU, ALASKA 99811-0805  
PHONE: (907) 465-2515  
FAX: (907) 465-3422  
TDD: (907) 465-5437

March 4, 1997

The Honorable Norman Rokeberg  
House of Representatives  
State Capitol, Room 24  
Juneau, AK 99801-1182

Dear Representative Rokeberg:

At the February 26, 1997, hearing on House Bill 116, you requested some information on historical workers' compensation rates in Alaska.

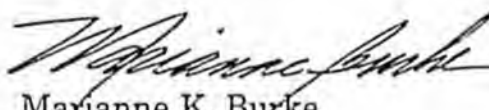
Enclosed is Exhibit I showing the statewide average rate changes from January 1, 1985, to January 1, 1997. The changes are split into the amount of the change that is due to Alaska experience, actual payments to injured workers, and changes due to statute revisions. The large increases effective on January 1, 1987, and January 1, 1988, are due to experience. The decrease effective July 1, 1988, is a result of the changes in the law. Except for two years of small increases, the statewide average has been downward. Rates today are 31 percent lower than they were before the statute revisions became effective.

Exhibit II gives the rates and the percentage changes for specific classes. Most of the classes shown in this exhibit were selected because they were mentioned in the hearings as other groups that might be interested in this legislation.

There are approximately 131 insurers writing workers' compensation business in Alaska, with the top 20 companies consisting of 90.89 percent of the market. As I testified to, the Alaska market is healthy and competition is helping all Alaskans. Market disruption is, however, always a possibility. If large portions of the premium dollars leave the market to go "self insured," current writers may decide that their share of the market is not large enough to be profitable. This is a big concern to the division. Loss of competition has disrupted the market in the past in Alaska and in many other state. I hope to avoid recurrences.

If you need any further information, please contact me.

Very truly yours,

  
Marianne K. Burke  
Director

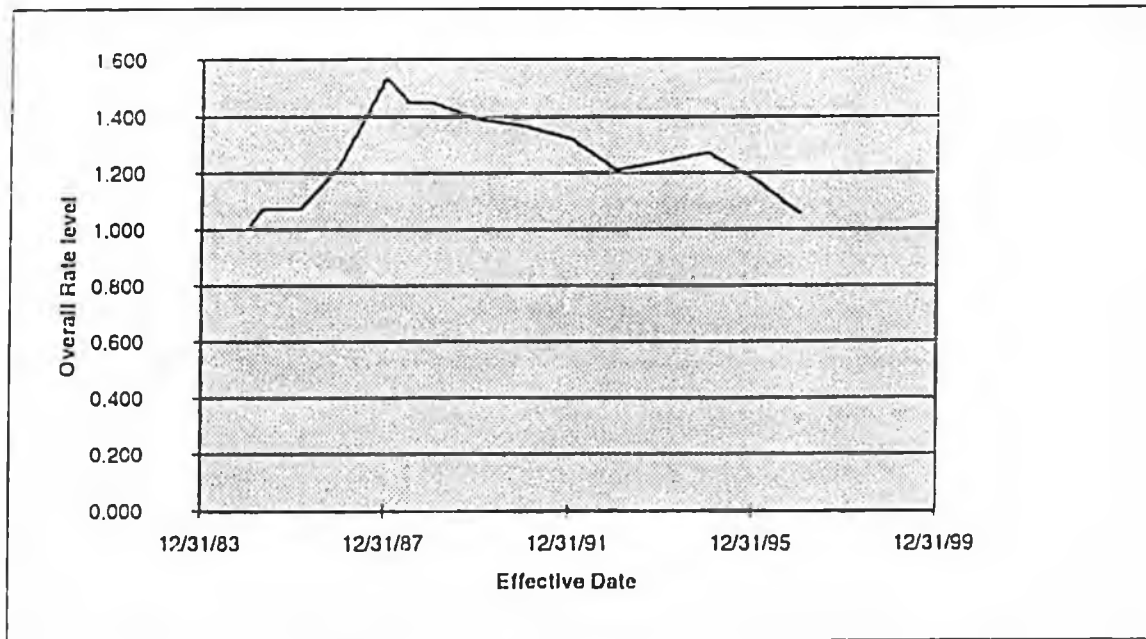
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Enclosures

### Historical Workers Comp Rate Changes in Alaska

Date	Total Premium Level Change	Change Due to Experience	Effect of Law and other changes	Cumulative Change
1/1/85	0.1%	1.001	1.000	1.001
5/1/85	7.3%	1.000	1.073	1.074
3/1/86	0.0%	1.000	1.000	1.074
1/1/87	14.3%	1.143	1.000	1.228
1/1/88	25.1%	1.251	1.000	1.536
7/1/88	-5.7%	1.000	0.943	1.448
1/1/89	0.0%	1.000	1.000	1.448
1/1/90	-4.1%	0.959	1.000	1.389
1/1/91	-6.2%	0.983	1.000	1.365
1/1/92	-3.2%	0.968	1.000	1.322
1/1/93	-8.5%	0.915	1.000	1.209
1/1/94	2.4%	1.024	1.000	1.238
1/1/95	2.6%	1.026	1.000	1.270
1/1/96	-7.1%	0.929	1.000	1.180
1/1/97	-10.3%	0.897	1.000	1.059

Cumulative Change

1/1/85 to 1/1/97	1.046	1.012	+5.9%
1/1/88 to 1/1/97	0.914	0.943	-13.8%
7/1/88 to 1/1/97	0.731	0.943	-31.1%



## Sample of Historical Alaska Workers Compensation Rate Changes by Classification

Class	113		1165		2104		5437		5645		5651		7219		9079	
Description	Fish Hatchery		Mining		Seafood Processors		Carpentry - Installation of Cabinet Work		Carpentry - Detached One or Two Family Dwellings		Carpentry - Dwellings - Thruo Storios or Loss		Trucking		Restaurant	
Date	% Chango	Rate	% Chango	Rate	% Chango	Rate	% Change	Rate	% Change	Rate	% Change	Rate	% Chango	Rate	% Chango	Rate
1/1/88		\$10.49		\$9.27		\$8.33		\$14.76		\$17.66		\$18.80		\$20.60		\$4.82
7/1/88	-5.7%	\$9.89	-5.7%	\$8.74	-5.6%	\$7.86	-5.7%	\$13.92	-5.7%	\$16.65	-5.7%	\$17.73	-5.7%	\$19.43	-5.6%	\$4.55
1/1/90	-19.4%	\$7.97	23.9%	\$10.83	13.5%	\$8.92	-23.9%	\$10.59	-13.4%	\$14.42	-9.1%	\$16.11	7.8%	\$20.95	16.3%	\$5.29
1/1/91	-11.0%	\$7.09	19.9%	\$12.99	8.3%	\$9.66	-11.2%	\$9.40	-20.5%	\$11.46	-22.8%	\$12.44	6.5%	\$22.31	9.8%	\$5.81
1/1/92	19.6%	\$8.48	-16.6%	\$10.83	7.6%	\$10.39	-5.5%	\$8.88	25.9%	\$14.43	-14.2%	\$10.67	-3.9%	\$21.44	-10.2%	\$5.22
1/1/93	-11.3%	\$7.52	-9.0%	\$9.86	10.1%	\$11.44	-7.9%	\$8.18	19.0%	\$17.17	-0.1%	\$10.66	-22.4%	\$16.63	-10.0%	\$4.70
1/1/94	-9.0%	\$6.84	-2.1%	\$9.65	1.5%	\$11.61	-1.1%	\$8.09	12.6%	\$19.34	1.6%	\$10.83	8.4%	\$18.02	-3.4%	\$4.54
1/1/95	-15.8%	\$5.76	11.0%	\$10.71	-0.9%	\$11.51	-4.8%	\$7.70	-12.6%	\$16.91	-5.1%	\$10.28	-5.2%	\$17.09	9.7%	\$4.98
1/1/96	6.5%	\$6.14	-16.1%	\$8.99	-6.4%	\$10.77	-12.1%	\$6.77	-3.6%	\$16.30	-11.1%	\$9.14	-18.4%	\$13.94	-9.6%	\$4.50
1/1/97	-3.1%	\$5.95	-11.3%	\$7.97	-15.1%	\$9.14	-3.4%	\$6.54	-28.2%	\$11.71	7.4%	\$9.82	-2.0%	\$13.66	-10.4%	\$4.03

## AIIB POSITION PAPER - HOUSE BILL 116

The Alaska Independent Insurance Agents & Brokers, Inc. opposes House Bill 116 which would allow the formation of self-insurance groups. There are two broad areas of concern with this concept: 1) the effect on the insurance market in general and 2) the actual provisions of House Bill 116.

The current worker's compensation market in Alaska is very strong and very competitive. There are increasing numbers of new, financially stable insurance companies writing coverage in the State. Worker's Compensation rates overall have decreased 40.1% since worker's compensation reforms were enacted in 1988 (See Attachment A). Currently, employers who institute adequate safety procedures and have acceptable loss records can obtain credits ranging from 10% to 40% for these practices. These market conditions have benefited all Alaskan employers. There is no reason to initiate new schemes that might destroy an effectively functioning system.

The overall worker's compensation premium in Alaska is not large when considered on a national level. If we begin withdrawing premium dollars from this market, insurance companies will begin to debate whether the market size justifies a commitment of their resources and efforts. If insurance companies begin to withdraw from the Alaska marketplace, the cost of coverage for all Alaskan employers will increase as competition is reduced.

The goal of any insurance legislation should be to create a climate stability and competition in the insurance marketplace. A viable insurance industry is the most effective tool for consumer protection.

Additionally, there are several specific provisions in HB 116 that cause concern. The bill creates a new chapter - Chapter 47 Worker's Compensation Self-Insurance Groups. Sec. 21.47.010 Scope states that a self-insurance group "is not subject to the provisions of the insurance laws of this title except as provided in this chapter". This means that:

1. The self-insurance groups are not subject to premium taxes. Premium taxes from insurance are the fourth largest source of income to the general fund. In addition to reducing revenues to the State, the exemption from premium taxes provides an unfair financial advantage for certain groups and creates a distinct disadvantage for the rest of the industry. There will be substantial additional costs to the Division of Insurance to implement and regulate these new entities and these additional costs will have to be absorbed from the general fund.
2. Protection from unfair trade practices, such as misrepresentation and unfair discrimination, and protection against unfair claim settlement practices will not be afforded to the members of the new groups.

Another area of concern is with the financial solvency of the self-insurance group. The ability to pay claims is critical for injured workers. Current Alaska statute requires a self-insured individual employer to have a net worth of \$5,000,000. 21.47.030 would require a combined net worth of all members of the group of only \$1,000,000. This is not a requirement of a claims reserve fund and is only a requirement to qualify for a certificate of approval. There is no liquidity requirement - just a net worth requirement. While a bond is required, this applies only after a period of failure to pay the required benefits and meanwhile there is a potential of significant time delays in the compensation of the injured worker. The financial requirement in this chapter is not nearly sufficient for a group composed of multiple employers, as the worker's compensation obligations could well exceed this net worth of \$1,000,000 in a single year with only a few serious injuries.

One of the frequently heard reasons for the formation of a self-insurance group is that the employers cannot afford the current worker's compensation premiums. As required by most group self-insurance mechanisms, the bill includes provision for an indemnity agreement which "jointly and severally bind(s) the group....to meet the worker's compensation obligations of each member". If affordability is an issue, it makes little sense to think that members are willing and able to bear responsibility for the worker's compensation obligations of other competitors in their industry.

The chapter provides for the use of "a uniform classification system, uniform experience rating plan, and manual rules....and manual rates". In addition to paying claims, the other expenses detailed in the bill include 1) the expense of examination by the director, 2) specific and aggregate excess insurance, 3) reinsurance, 4) annual audits of classifications, experience rating, payroll and rates, 5) the services of a service company, 6) an annual CPA audit, 7) various surety bonds, and 8) administrative costs. It is difficult to imagine how there can be any premium savings to group members that are being charged manual rates and whose expenses must include all the listed obligations.

In conclusion - Please consider in your deliberations on this bill the potential impact of an insolvent group. Where would the funds be found to pay the legal obligations to injured workers? What agency would oversee the process of compensating the injured workers? If a group is given special status by statute, will the State of Alaska be responsible for the financial impact of a failure of that group? The insurance marketplace is functioning smoothly and there does not appear to be a reason for the creation of new special interest entities that would compete unfairly in the same arena.

*Quela Hall*

### WORKERS COMPENSATION RATE CHANGES

RATE DATE CHANGE	OVERALL RATE
1-1-97	-10.3%
1-1-96	- 7.1%
1-1-95	+ 2.6%
1-1-94	+ 2.4%
1-1-93	- 8.5%
1-1-92	- 3.2%
1-1-91	- 6.2%
1-1-90	- 4.1%
7-1-88	- 5.7%
Total Change	-40.1 Percentiles

Worker's Compensation reforms were enacted in 1988

**PRESENTATION TO  
ALASKA STATE LEGISLATURE  
RE: HB 116/SB 95**

I am here on behalf of Alaska National Insurance Company to testify in opposition to this legislation.

**Alaska National Insurance Company**

Alaska National Insurance Company has been writing workers compensation insurance in Alaska since 1980 and during the past sixteen years has provided a consistent, and financially sound market for workers' compensation insurance upon which most of Alaska's significant industries have been relying and most of the state's insurance producers have come to know as a reliable business partner for their clients.

**Richard Block**

You should also know my own background. I am an attorney and risk management consultant having worked in the insurance industry in one capacity or another for twenty nine years, twenty two years in Alaska. I was for three years the Director of Insurance for the state, for six years the President of Alaska National, for twelve years, a risk management consultant. In that capacity I advised individual large commercial risks such as Alyeska Pipeline, Veco and SKW on a wide variety of risk management issues, advised groups such as Alaska Rural Electric Cooperative Association and advised some entities that were considering groups, such as The Associated General Contractors and some municipalities, about the implications of their participation in group programs. Prior to becoming Director of Insurance and throughout my tenure in that office, I advised the Medical Malpractice Commission formed by then Governor Hammond, and the Medical Indemnity Corporation of Alaska, the state entity formed by the legislature in response to recommendations of that Commission that provided group insurance to the medical community until approximately 1987.<sup>1</sup>

I provide this background because I want to make it clear that I have an understanding of the problems faced by groups, their desire to solve what they see as their insurance market problems and the ramifications of several possible solutions to those problems.

**What is the Problem?**

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<sup>1</sup> A.S. 21.88 adopted 1976, repealed 1991 because the original legislation served its purpose and the program was terminated as private traditional medical malpractice insurance became available.

loss to the financial resources of others. From that early institution of spreading risk sprang the insurance industry we know today.

A regime for the regulation of insurance grew up primarily to assure that the financial resources upon which the contracts of indemnity depend, would always be available when the person suffered the loss.

On the other hand, self-insurance means there is no sharing of risk. There is no pooling. It is a single entity deciding that, if there is a loss, it will not be catastrophic to that entity and thus it does not choose to engage in any pooling of risk mechanism. They do not have insurance.

That is why it is so deceiving to see the term "self-insurance group" in this bill. The bill provides a mechanism for pooling of risk, for the exchange of a somewhat more determinable expense to each participant for an indeterminable, and potentially, catastrophic loss to one or more of the participants. It shifts one participant's loss to the financial resources of others. It is classic insurance.

#### **Substantive Objection**

Is our objection merely semantic, or does this confusion, borne of trying to call an insurance plan a non-insurance plan, carry with it more consequential implications?

The substantive implications of what is proposed in this bill are extremely and adversely consequential to many different constituencies in this state. Calling it "self-insurance" has not avoided the problems attendant to poorly regulated or unregulated insurance plans. Study these implications carefully and, when you do, you will come to the same conclusion as did we, that the whole concept must be rejected.

#### **Volatile Program**

This bill deals with workers' compensation insurance. Of all the lines of insurance that a pooling scheme like this could underwrite, workers' compensation is one of the most volatile and runs the risk of shifting the burden of loss to the most vulnerable constituency in the state and the one least able to protect themselves; the injured workers who would be covered by contracts issued by this pooling scheme.

Any actuary will tell you, and this will likely be confirmed by the State Division of Insurance, workers' compensation carries one of the greatest risks of fluctuation in the valuation of loss reserves, and has the longest tail, i.e. claims can be paid out over more than ten years and the circumstances of an individual claim can change so that a reserve set after, say, five years is not sufficient after ten years. Also, in the case of latent exposures, a claim may be unknown for many years.

Of even more concern, the net worth of the group offered to support the insuring program is also supporting the members' current business operations and is subject to their general business risks. Any insuring mechanism must have segregated and unfettered capital to support the underwriting program.

The proponents then might suggest that they are purchasing excess and aggregate stop loss insurance to minimize their exposure. Indeed this would be sound insurance pooling management. Unfortunately, however, this is fraught with risks. Let me list a few which I learned the hard way during my tenure as President of Alaska National.

First, underwriters of excess and aggregate stop loss insurance are in the business of providing that coverage only so long as the risks to them are acceptable. There is no assurance that over the long haul coverage will always be available or that the contract terms will provide long term, irrevocable protection for the pool. There is nothing that would prevent an excess carrier providing cover this year from saying they will not write the program next year and leaving the employer/participants scrambling to find workers' compensation coverages back in the traditional markets. Were that to happen, the participants, in this case, the homebuilders, would be paying for traditional workers' compensation insurance for the current year and exposed to possible assessments for all prior years they were in the program.

Second, much to my dismay, many of the reinsurers we had protecting Alaska National during our early years got into financial difficulty, some even becoming insolvent. Some were very large and well respected names in the industry when we purchased the reinsurance. It was our capital and our financial resources that ultimately filled the gap left when these securities failed us. Had we had only the barest minimum capital, or even less as proposed here, the resources would not have been in place to fill the gap left by those reinsurers who failed us. Despite the best intentions of the creators or managers of the plan proposed here, who will be required to fill the gap if one of the excess or aggregate stop loss carriers fails? As I see it, it will be primarily the homebuilders, ultimately, the injured workers!!

A program similar to what is proposed in this bill was adopted in California, only mindful of the very problems I have recited here, the California legislature required adherence to some very imposing requirements. Included is the requirement for \$5,000,000 net worth of initial participants and a security deposit equal to approximately two times estimated annual premium.<sup>7</sup>

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<sup>7</sup> Hunt, Robert M., "Group Self-Insurance in California: a Feasible Option?" Underwriters Report, October 20, 1994, p. 20

What is even more curious about this legislation is the requirement that the loss fund be maintained at 70%<sup>9</sup>. To generate premium sufficient to cover losses with a 70% loss fund, rates will have to be at least as high as they are now in commercial carriers.

We are not unmindful of the savings which are purported to be generated in the plans similar to the proposed plan in other states. However, as just mentioned, they were formed in the midst of an insurance crisis. Such savings could not be achieved in today's competitive market. I am sure that the Director of Insurance will confirm the health of the workers' compensation insurance market from the standpoint of the purchaser.

We have not closely examined these other plans but would ask whether the accounting for these plans are on the same basis as all insurers report their results, i.e. including present and all future losses. We would ask if these plans are being subsidized, that is, the sponsoring trade association picking up costs which otherwise would be charged to the insuring entity. We would ask if these programs are being faithfully supported by the majority of the membership of the sponsoring trade association. Our information indicates that, as a result of the competitive insurance market nationwide, some programs in other states are being terminated, either converted into insurance companies or, sold or absorbed into insurance companies as the members begin to find that the total true cost of the program is not sufficiently different from the cost to purchase traditional insurance to warrant the exposure for unlimited liability for the losses of their competitors.

In a recent study completed in Chicago, Washington, D.C. and Los Angeles, it was found that residential construction contractors are "calculated risk-takers" and that safety is not a high priority.<sup>10</sup> This may explain the high population of homebuilders in the assigned risk pool, but it is not a sound basis upon which to build a cost saving underwriting program.

Having said that, however, it should be noted that the overall rate level in Alaska has been coming down because of savings statewide and the rates for the homebuilders' classification in Alaska has also been coming down because of

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<sup>9</sup> HB 116 sec. 1, re: 21.47.060(b)(1) p. 6 l. 3.

<sup>10</sup> Sylvestre, John, CR., "Playing it Safe", Remodeling, February, 1997, p. 90.

This article, referring to a study by B/R/S Group, Inc., a market research firm in Chicago, further noted: "Contractors tend to resist authority, taking issue with OSHA, insurance companies—even supervisors at times. This may be because they have their own way of doing things—their own standards—and they want to make their own decisions, especially when it comes to safety. They are constantly challenging the line between productivity and time saved. Sacrificing safety is, in their opinion, at odds with creativity and accomplishment." At p. 90

other employers in the trust<sup>11</sup>. Later, through Department of Labor rulings and otherwise, some regulation by the state insurance regulators has been imposed on these pools.

This legislation lacks any safeguards against that happening in Alaska.

Let me point out one specific problem in this area. The bill provides for a refund if the losses and other costs for any year are less than the premium collected that year. The refund is payable "not less than 12 months after the end of the fiscal year."<sup>12</sup>

The promise, or even the slightest suggestion, that at the end of one year there will be refunds is a cruel incentive to hold before employers banking on cost savings. There is no way any workers' compensation plan can ever hope to know for at least five years after a policy year what the true cost of their losses are likely to be.

The only restriction on the formation of these groups is that there be a sponsoring trade association that has been in existence five years<sup>13</sup>. Does this mean that any trade association of small merchants or service providers can be used as a market vehicle for promoting under capitalized protection for injured workers? Can the any Chamber of Commerce or the National Association of Business be used as the sponsoring organization for a widely marketed plan to excuse employers from the current system relying, instead, on the financial strength of other employers in the state.

Lastly, the wording of this bill allows the excess and aggregate stop loss coverages to be purchased from non-admitted carriers, carriers that are not regulated by the state to the same degree as licensed and admitted carriers.

### **Unfair Competitive Advantage**

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<sup>11</sup> See Aspinwall, David, "Fraudulent Practices Involving the Underwriting of Group Health Plans", Defense Counsel Journal, Vol. 62, No. 2, April, 1995 p. 249

Aspinwall said; "Many of these operations are legitimate, but others organize in ways intended to avoid state requirements regarding licensing and the posting of reserves that protect the financial integrity of the plans. Because of the lack of oversight, disreputable persons use these arrangements as the basis of creating what amount to Ponzi schemes....These Fraudulent practices create serious problems. Employees who believe they are covered face financial devastation from the non-payment of medical claims. Employers who have paid premiums to MEWA's lose their money and then must face their employees when the fraud is exposed....Schemes involving this sort of fraud take advantage of small employers' dilemmas in providing health benefits. The purveyors of fraud will attempt to pool the health benefit plans of many employers by forming MEWA's with promises of lower costs and less red tape." At p. 249.

<sup>12</sup> HB116, sec. 1, re: 21.47.150 (a) p. 10 l. 1.

<sup>13</sup> HB116, sec. 1 re: 21.47.500 (6) p. 13 l. 7.

Any association of employers engaged in a common industry has available alternatives that will accomplish the legitimate goal of reducing expense by engaging in common efforts at loss control and creating buying power through grouping. There are also ways groups of employers may avoid paying a lot of discretionary administrative and marketing expenses.

Under the current statute, a trade association can create a purchasing group. It can aggregate its members into a single group policy, pooling their experience and sharing the ultimate costs of their losses. They put up no capital to do this. There is the significant added protection that there is a licensed insurer providing the financial security and there is no liability, beyond the premium, that falls back on the employers.<sup>14</sup>

Under the current statute, a group of employers may establish a mechanism for the mutual exchange of indemnity agreements and operate the program themselves.<sup>15</sup> This is called a reciprocal. It requires the dedication of a substantial amount of capital to the enterprise, but it is their enterprise and they may take advantage of the investment income, determine what administrative, marketing or operating expenses it wishes to incur and set their own underwriting standards. There are two such entities already in the state, the Alaska Timber Insurance Exchange and one operated by the Alaska Rural Electrical Cooperative.

Under the current statute, an enterprising producer might obtain a commitment from a licensed carrier to pass on reduced marketing and administrative costs if a large number of employers in a single industry will commit to place their workers' compensation coverage with that carrier. Several groups have been successful with such programs for liability insurance. One carrier in Alaska is providing workers' compensation insurance for such a program to the National Electrical Contractors Association.

### **Conclusion**

All employers are looking to reduce their costs of doing business and the proponents of this legislation have latched onto a scheme that, from outward appearances, could reduce their costs. In fact, they accomplish this not by reducing the true costs of industrial injury in their industry, which is what ultimately drives the premium rates, but by trying to excuse themselves from the obligations which this legislature has imposed on all employers as a matter of public policy. They try to do this with a plan that denies themselves and their injured employees whom the legislature requires them to protect, the benefits of a regulatory regime that has proven over time to be useful in minimizing the loss

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<sup>14</sup> A.S. 21.36.190 (d)

<sup>15</sup> A.S. 21. 75.



APR 16 1997

# ALASKA MINERS ASSOCIATION, INC.

601 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 278-7997 Telephone: (907) 278-0347

February 24, 1997

Honorable Pete Kott  
Alaska State House of Representatives  
Capitol Building  
Juneau, AK 99801

RE: HB-116, Worker's Compensation Self-Insurance

Dear Representative Kott,

Thank you for the opportunity to comment on your House Bill 116. The Alaska Miners Association wishes to go on record in support of this bill and we urge its passage.

This bill will allow the AMA and other such associations in the state to self insure for worker's compensation insurance through a system of pooling. The experience in other states has been that such pooling arrangements can greatly reduce the cost of worker's compensation insurance. Currently, if a miner in a remote area transports even one employee from local village in his own aircraft, he is arbitrarily placed in a risk pool that includes a 25% surcharge. That means he must pay a set charge based on a percentage of wages, plus charges for using his own aircraft, plus other charges depending on the mine claim history, plus other factors that are not under their control.

HB-116 will place the management and oversight of the workman's compensation program with people that are here in Alaska and that are concerned about both the safety of employees and the costs. This will allow effective control and ensure that the opportunities for fraud are minimized.

Miners have no control over the prices they receive for their products. However, this bill will give them a better handle on the costs that they face and give them a better chance of being profitable.

Again, we urge passage of HB-116.

Sincerely,

Steven C. Borell, P.E.  
Executive Director



APR 16 1997

WHITING REALTY

2075 JORDAN AVENUE  
JUNEAU, AK 99801  
OUB. (907) 753-0888  
FAX (907) 753-0888

Dear Members of the Senate Labor and Commerce Committee,

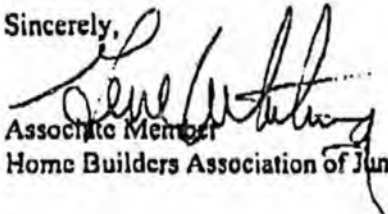
The Alaska State Home Builders Association has been working with the state legislature and governor to pass legislation that will allow our association and other associations in the state to self insure for workers compensation insurance through pooling arrangements.

This type of legislation has been enacted in over forty other states with fourteen of these states utilizing this type of legislation. As a consequence, workers compensation costs have decreased dramatically for those members of state home builders associations utilizing this type of legislation. Experience has shown that when an association self insures for workers compensation the members of the association tend to focus on fraud and safety issues much more closely than their previous for-profit insurance companies causing rates to dramatically decrease.

Workers compensation costs are a substantial portion of the costs of building a new house in Alaska; the average workers compensation cost for a new home in Alaska is in the area of \$4000 to \$6000. This cost places a burden on both the consumer of that house and the builder of that house. New housing is expensive in Alaska. Anything we can do to reduce the cost will benefit both the consumer and the new home builders in Alaska. As mentioned, the workers compensation pooling legislation we support has been shown to decrease these costs through reduction in fraud, improved safety efforts, and peer pressure.

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Sincerely,



Associate Member  
Home Builders Association of Juneau, Inc.

APR 16 1997

Commercial Buildings  
Roofing Experts



DESIGN NORTH

General Contractors  
P. O. BOX 517  
DOUGLAS, ALASKA  
99824  
(907) 586-6540

Dear Members of the Senate Labor and Commerce Committee,

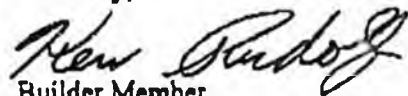
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Sincerely,



Builder Member  
Home Builders Association of Juneau, Inc.

APR 16 1997

**THOMAS P. KING & ASSOCIATES**

Real Estate Appraisers and Consultants

March 28, 1997

Dear Members of the Senate Labor and Commerce Committee

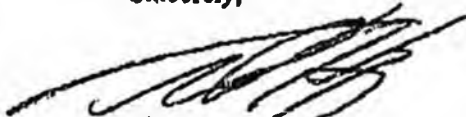
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Sincerely,



Thomas P. King  
Associate Member  
Home Builders Association of Juneau, Inc.



## JAN'S DISTRIBUTING, INC.

Box 140856

Anchorage, Alaska 99514

243-JANS

Fax 243-5744

1-800-478-9898

APR 15 1997

April 14, 1997

Mr. Chairman.

Thank you for listening to my testimony last week. Here are the figures you requested from me.

1. Stores-(small grocery, liquor, convenient stores) usually order by the case. A case or 6m = 30 cartons of cigarettes. People in the bush are not price sensitive. So when they order their cigarettes, generics are a small part in some areas. However with the price increases, we have seen more movement of the generic cigarettes in some areas.

2. Individuals-(people who order direct to their house) will usually order between 2 and 10 cartons per household. Although there are some generic cigarettes sold, for the most part they are all branded.

Stores/Individuals- both of these customers will order copenhagen as their number one chew and skool is number two, then kodiak. Currently there is no generic chew in the bush.

Now the only way to verify age for purchasing tobacco products, (assuming they aren't using their moms or dads or haven't stole them) is by check or credit card. And even then, we don't know for sure if that is where the product is going. There is no way to police the problem in the bush let alone here in Anchorage.

I hope this information is helpful to you when you are talking to the other committee members. If I can be of further assistance, please call me at 243-5267.

Sincerely,

Bobby Scott  
Sales Supervisor

# COYLE CONSTRUCTION

P.O. Box 33724  
Juneau, Alaska 99803  
Phone (907) 780-5188  
Fax (907) 780-5188



Dear Members of the Senate Labor and Commerce Committee,

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Sincerely,

A handwritten signature in cursive script that reads "Michael J. Coyle".

Builder Member  
Home Builders Association of Juneau, Inc.

**GREENRIDGE CUSTOM HOMES, INC.**

*Mark & Vicki Fritzier  
950 Pinton Drive  
Wasilla, AK 99654*

*907-376-5884*

*907-376-5528 (fax)*

APR 11 1997

The Honorable Norm Roakberg  
House Labor and Commerce Committee  
Alaska State Legislature  
State Capitol MS 3100  
Juneau, AK 99801

March 21, 1997

Dear Representative Roakberg and members of the House Labor and Commerce Committee:

The Alaska State Home Builders Association has been working with the state legislature and the Governor to pass legislation that will enable our association and other associations in the state to self-insure for workers compensation insurance through pooling arrangements.

This type of legislation has been enacted in over forty other states with fourteen of these states utilizing the pooling process. As a consequence, workers compensation costs have decreased dramatically for those members of state home builders associations utilizing this type of legislation. Experience has shown that when an association self insures for workers compensation the members of the association tend to focus on fraud and safety issues more closely than their previous for profit companies, causing rates to dramatically decrease.

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Sincerely,

*M. Fritzier*

APR 11 1997

## M&M Services

PO Box 240604  
Douglas, AK 99824-0604

Phone 586-2336  
Fax 586-6332

Dear Members of the Senate Labor and Commerce Committee,

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Sincerely,

  
Builder Member  
Home Builders Association of Juneau, Inc.

**D & L Construction Co., Inc.**

P. O. Box 680  
Cooper Landing, Alaska 99572  
(907) 262-6160 or (907) 595-1278  
FAX (907) 595-1288

APR 11 1997

February 20, 1997

Representative Gary Davis  
Room 513, State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Davis:

The Alaska State Home Builders Association has been working with the state legislature and the governor to pass legislation that will allow our association and other associations in the state to self insure for workers' compensation insurance through pooling arrangements.

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Sincerely,



APR



BLUHM SERVICES

7220 Glacier Hwy Juneau, Alaska 99801

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Sincerely,

Associate Member

Home Builders Association of Juneau, Inc.

GARY BLUHM 789-R040

**Anchor Electric**  
5362 Commercial Blvd.  
Juneau, AK 99801  
Phone 907-780-3690  
Fax 907-780-3692  
Email anchor@ptialaska.net

APR 08 1997

Dear Members of the House Labor and Commerce Committee,

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Sincerely,



Associate Member  
Home Builders Association of Juneau, Inc.

**W. D. Field Construction**  
P.O. Box 210953  
Anke Bay, Alaska 99821

**APR 08 1997**

March 28, 1997

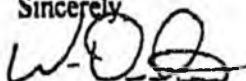
Dear Members of the Senate Labor and Commerce Committee

The Alaska State Hombuilders Association has been working with the state legislature and governor to allow associations to self insure for workers compensation by pooling.

As a result of this type of legislation being enacted in forty other states the cost has decreased dramatically for those members that have used this type of legislation.

I'm writing to ask your support for this legislation.

Sincerely



W. D. Field

Builder Member  
Hombuilders Association of Juneau Alaska Inc.



## THE HEATING COMPANY

PROFESSIONAL PLUMBING AND HEATING  
5434 SHAUNE DRIVE, B-1 JUNEAU, ALASKA 99801  
(907) 789-3332 FAX (907) 789-6868

APR 08 1997

Dear Members of the House Labor and Commerce Committee,

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Sincerely,

Associate Member  
Home Builders Association of Juneau, Inc.

FEB 25 1997

HAPCO CONSTRUCTION  
PO BOX 1501  
SOLDOTNA, AK 99669  
907-262-9515

February 14, 1997

Representative Norman Rokeberg, Chairman House Labor & Commerce  
Room 24, State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Rokeberg and Committee Members:

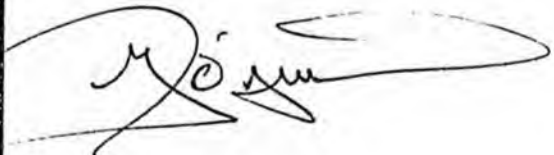
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Sincerely,





**GRIZZELL ENTERPRISES, INC.**  
BOX 1233  
SOLDOTNA, ALASKA 99669  
PHONE 282-5082

MAR 10 1997

MB/16

March 10, 1997

Representative Norman Rokeberg, Chairman  
House Labor & Commerce Committee  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Rokeberg:

We would like to take this opportunity  
to express our appreciation and thank you  
for your support of the Workers Compensation  
self-pooling legislation.

Sincerely,

*James C. Grizzell*

It is important, before we begin crafting a solution, that we have a good understanding of the problem. We are being told that the solution being proposed has an antecedent in North Carolina where a similar program was adopted and has allegedly worked for homebuilders there. I am told that at the time the plan was initiated there, there was a serious problem of insurance availability. Almost any plan would have been considered a success if it provided a way for homebuilders to get any insurance.

There is no crisis of availability in Alaska. Every homebuilder, every employer, has workers' compensation insurance available to them--no exceptions. If a private commercial carrier will not write the coverage voluntarily, the workers' compensation assigned risk plan must write the risk and at rates controlled by the Division of Insurance. In 1995, 176 employers whose predominant class of workers were in the homebuilders classification were provided coverage by the workers' compensation assigned risk pool.<sup>2</sup>

So there is no problem of availability.

There are two kinds of risk that find their way to the assigned risk pool: those that are considered too small or too new to be written in the voluntary market, and those with a history of losses that make them undesirable from an exposure standpoint. For either of these kinds of risks, the problem is price. The larger risks with poor loss histories are paying a higher price because they are not controlling the safety of their workers. The small risks are paying a high price because of minimum premiums, assigned risk surcharges and other factors that affect small employers in every industry.

It is our view that the homebuilders are looking for a way to reduce their workers' compensation costs and they have embraced the scheme in this bill to do that.

The fundamental thrust of this bill, the way they wish to reduce premium, is to avoid paying the costs associated with traditional insurance by creating an insuring mechanism and calling it group self-insurance.

### **What is group self-insurance?**

There is no such thing as group self-insurance.

A study of the history of insurance will reveal that, in the early days, those who had mutual interests or a common industrial pursuit, banded together to enter into agreements for the mutual or reciprocal exchange of indemnities. "We all have boats. Let us agree among ourselves that if one of our boats goes down, all of us will chip in to replace that boat." This was the shifting of one person's

---

<sup>2</sup> Data provided by National Council on Compensation Insurance

Unlike the example of the boats owned by the people who exchange indemnities, the loss here, if there is a failure of the plan, falls not on the employers or the participants, it falls potentially on the injured workers.

### **Financial Integrity of the Program**

The first, and probably the most significant implication deals with financial security behind the indemnity.

One of the underlying premises of all insurance regulation is that the contract upon which so many rely must be backed with sound financial resources so that when the obligations come due, which could be anywhere from one year to twenty years after the date of the contract, the financial resources will be in place to honor those obligations.

The regulatory regime in this and most other states requires minimum capitalization of all insurance enterprises, whether stock<sup>3</sup>, mutual<sup>4</sup> or reciprocal<sup>5</sup>. This legislation attempts to exempt these pooling arrangements from the capital requirements of licensed insurance entities and establish much lower, if not non-existent capital requirements<sup>6</sup>.

Experience has demonstrated over the years that the current minimum capital allowed today for insuring entities is probably inadequate, or at least bare minimum. There is no justification for allowing any entity insuring these kinds of exposures to have lower capital requirements than what is now in the statute.

Proponents of this measure would have you believe that because of the mutual exchange of indemnities by the participants in these programs there is adequate capital in the combined net worth of the participants. How do we know? There is no requirement that the financial statements of the participants be audited. There is no requirement that any one participant have a minimum net worth. The requirements of this bill would be met, for example, if the \$1,000,000 net worth were made up of 50 participants each with a \$20,000 net worth, a net worth which could be in the form of raw land, tools and equipment, airplanes or whatever the participant's firm may have as its assets, most of which, incidentally, would not be allowable assets under law for a workers' compensation insurer.

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<sup>3</sup> A.S. 21.09.070 requires stock companies to have \$2,750,000 to begin writing workers' compensation insurance.

<sup>4</sup> A.S. 21.69.220 requires mutual insurers to have \$2,000,000 to begin writing workers' compensation and imposes minimum initial subscribers and premium.

<sup>5</sup> A.S. 21.75.050 requires reciprocal insurers to have \$1,875,000 plus such additional amount as may be set by the director to begin writing workers' compensation.

<sup>6</sup> HB 116 sec. 1 re: 21.47.030(b)(1) p. 2 l. 29. The requirement is \$1,000,000 of aggregated net worth of the participants. There is no requirement that the pooling entity itself have its own net worth.

Third, and I will cover this point more fully further in my presentation, the more excess and aggregate stop loss protection is purchased, i.e. the lower the amount of risk retained in the pool to be shared by the participants, the less this is an insuring program and the more it is a cooperative insurance purchasing plan and the more the ultimate cost to the participants will approximate the costs of standard group workers' compensation insurance, which, incidentally, is legal and available now without any legislation.<sup>8</sup>

### **Will it solve the pricing concern?**

Let me now deal with the issue of pricing.

It would appear that the motive behind this bill is to permit an industry group to have favorable pricing because they can circumvent some of the traditional mechanisms that regulate pricing under normal circumstances. It might be argued that the insurance carriers' profit and several insurance system expenses can be avoided by the group members.

The rate law and the practice in this state provides the employers with a rate determination mechanism that causes all risks to pay roughly what the risk is worth. I know this legislature has considered the rate plan many times and knows that it reflects, albeit slowly, the actual value of losses for the state, for the industry, for the work classification and for the risk. The mechanism for rate making managed by the National Council for Compensation Insurance is complex, often confusing, occasionally unfair to particular classifications and always unpopular. The fact is, though, that it does respond over time to the actual experience, the actual frequency and severity of losses in the relevant classification.

In addition, there is sufficient flexibility allowed in Alaska in determining price, and sufficient markets eager to sell their products, that the force of competition in an open market place with zealous agents and brokers, assures the price paid overall for any single industry, will never be higher than costs plus reasonable profit.

Unless some carrier can be found that is willing to write the excess coverage or the aggregate stop loss coverage at less than true cost, the total program cost to the industry establishing one of these groups will not be significantly less than what that industry will pay without such a program. Moreover, if a carrier can be found that will write at less than true cost, it is a danger to the program and to the injured workers depending upon the program.

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<sup>8</sup> A.S. 21.36.190(d)

recent good experience in the class. This may be indicating that the best solution for the homebuilders is to take advantage of the continuing lowering rates their own improving experience has generated.

### **Marketing Scheme**

This bill is being presented to you as a unique solution for the special problems of a single industry. In fact, the legislation is not limited to a single industry. In fact, there is no special problem facing the homebuilders, just the usual problem that they do not want to pay what they are paying for workers' compensation insurance. Finally, and most significantly, this legislation opens the way for any clever marketer to present a program in Alaska which can be marketed to unsuspecting employers as a cost saving mechanism without the proper safeguards concerning the employers' unlimited exposure to the net losses of the operation.

Given the very competitive market, we imagine that the less desirable and small premium risks will be attracted to the promise of savings. Those employers whose business is sought by insurers would surely not wish to take on the financial risks associated with joint and several liability, for little or no cost savings. Therefore, we believe that businesses that under any analysis should not assume joint and several liability will be the best target for the marketers

About twenty years ago, a similar idea was presented to the Congress and Congress responded with a statute allowing Multiple Employer Welfare Arrangements (MEWA) or Multiple Employer Trusts (MET). These were not insurance companies, they were trust pools. They were intended to allow specific industries to pool their obligations for medical and life insurance benefits for their employees free of regulation by state insurance regulators. They shared the risk among the pool participants but there was to be protection from excess and aggregate stop loss reinsurance. In structure, the plans were very similar to what is proposed in this legislation.

What happened?

At first, Multiple Employer Trusts were marketed to the specific industries as intended and most employers were informed of the risks. Then they were marketed to almost anyone who would listen by marketers, not experienced local agents or brokers, who were not quick to inform the employers that there was significant contingent exposure for the losses in these MET's if they failed. Then they began to fail. Employers were stuck with serious liabilities for the medical costs of their sick employees plus the liability for the sick employees of

Finally, this bill proposes some exceptions from employer obligations that are totally unjustified.

First, this plan is exempt from premium tax. Why? Why are those employers who buy insurance from the plan any less obligated to pay their fair share of the cost of government than their competitors who are not in the plan, or employers who are in other industries?

Second, even though these groups are exempted from a large portion of the regulatory regime, this plan puts significant costs on the Division of Insurance to provide oversight, financial review, rate regulation and so forth. For a similar review, a new insurance company would pay \$2,500. This legislation calls for a fee of \$500.

Third, all employers in this state indirectly pay for the residual market mechanism, the workers' compensation assigned risk plan. It is paid by participating insurers as a cost passed on to employers in the rate. The proposed bill would exempt the plan, and thus its insureds, from making its fair contribution to the residual market mechanism and increase the costs for those purchasing traditional workers' compensation coverage. Is this fair?

Fourth, if, notwithstanding all the safeguards in place, an insurance carrier becomes insolvent, claims are paid by the Guarantee Association which is ultimately funded by all policyholders of the healthy carriers in the state. Under this bill, a 'group self insured' pool would not contribute.

The significance of these points is that the proponents of this legislation want a legislated competitive advantage. We think that all industries should pay their fair share of governmentally imposed costs and that it is an obligation of the legislature to maintain a level playing field, to assure that no segment of the economy can, by legislative manipulation, get a competitive advantage by being allowed to circumvent systems that the legislature either mandates or sanctions for carefully thought out good reasons.

#### **Who Pays The Injured Worker If A Group Fails?**

So far I have highlighted that the full and timely payment of workers' compensation benefits to injured workers is at risk with this legislation. However, the language in this bill could be interpreted so that the state is the ultimate guarantor of payment of benefits, as the security deposit is for the 'benefit of the state'. If this interpretation is correct, this means that the employees of the members and the members themselves would, in the event of plan failure, be dependent upon legislative appropriation to make up a deficiency.

#### **Available Alternatives.**

from the financial, investment, credit and actuarial risks attendant to this kind of business.

This is why we point out that this plan is really insurance, why it really needs to be regulated as insurance and why, from a business analysis perspective a good result could be obtained for the homebuilders through risk management techniques that are available now, are legal now and financially sound.

We firmly believe that when each of you take the time to carefully consider the implications of this legislation you will come to the same conclusion.

# ENERGY

CONSERVATION  
SERVICES

APR 01 1997

Dear Members of the House Labor and Commerce Committee,

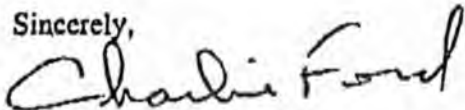
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Workers compensation costs are a substantial portion of the costs of building a new house in Alaska; the average workers compensation cost for a new home in Alaska is in the area of \$4000 to \$6000. This cost places a burden on both the consumer of that house and the builder of that house. New housing is expensive in Alaska. Anything we can do to reduce the cost will benefit both the consumer and the new home builders in Alaska. As mentioned, the workers compensation pooling legislation we support has been shown to decrease these costs through reduction in fraud, improved safety efforts, and peer pressure.

I and hundreds of others in the home building and other association industries support this legislation. I'm writing to ask that you also support this legislation. Thank you for your help on this issue of critical importance to the economic health and diversification of our great state.

Sincerely,



Associate Member  
Home Builders Association of Juneau, Inc.

APR 01 1997

# M&M Services

PO Box 240604  
Douglas, AK 99824-0604

Phone 586-2336  
Fax 586-6332

Dear Members of the Senate Labor and Commerce Committee,

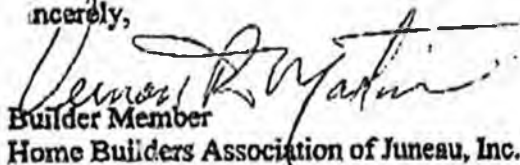
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Sincerely,

  
Builder Member  
Home Builders Association of Juneau, Inc.

APR 01 1997



Dear Members of the House Labor and Commerce Committee,

The Alaska State Home Builders Association has been working with the state legislature and governor to pass legislation that will allow our association and other associations in the state to self insure for workers compensation insurance through pooling arrangements.

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Sincerely,

*Earl J. Cameron*  
*President Cameron Plumbing & Heating Inc.*

Associate Member  
 Home Builders Association of Juneau, Inc.

Residential and Commercial Contracting • Repair

Phone (907) 789-2896 • 800-478-2896 • Fax 789-0495 • 1850 Crest St. • P.O. Box 32720 • Juneau, Alaska 99803

NEW CASTLE BUILDER'S  
JERRY STOCK  
BOX 456 KENAI, AK. 99611  
776-5583

MAR 06 1997

Representative Norman Rokeberg, Chairman House Labor & Commerce  
Room 24, State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Rokeberg and Committee Members:

The Alaska State Home Builders Association has been working with the state legislature and the governor to pass legislation that will allow our association and other associations in the state to self insure for workers' compensation insurance through pooling arrangements.

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Sincerely,  
Jerry S. Stock  
New Castle Builders



PO BOX 467 NINILCIK, ALASKA 99639

PHONE FAX 907-262-7239

Representative Norman Rokeberg, Chairman House Labor & Commerce  
Room 24, State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Rokeberg and Committee Members:

The Alaska State Home Builders Association has been working with the state legislature and the governor to pass legislation that will allow our association and other associations in the state to self insure for workers' compensation insurance through pooling arrangements.

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Sincerely,

*Bruce V. De, Pres.*

MAR 13 1997

RUSTICS OF ALASKA BY VIKING CONSTRUCTION, INC.



PO BOX 467 NINILCIK, ALASKA 99639

PHONE/FAX 907-262-7249

Representative Gail Phillips, Speaker of the House  
Room 208, State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Phillips:

The Alaska State Home Builders Association has been working with the state legislature and the governor to pass legislation that will allow our association and other associations in the state to self insure for workers' compensation insurance through pooling arrangements.

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Sincerely,

*Bruce V. de, Pres.*

MAR 13 1997

S. W. CONSTRUCTION  
P. O. BOX 112181  
ANCHORAGE, AK 99511

Dear Chairman of the House (Senate) Labor and Commerce Committee:

The Alaska State Home Builders Association has been working with the state legislature and governor to pass legislation that will allow our association and other association in the state to self insure for workers compensation insurance through pooling arrangements.

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Workers compensation costs are a substantial portion of doing business in Alaska. As an example, the average workers compensation cost for a new home in Alaska is in the area of \$4,000 to \$8,000. These costs places a burden on both the consumer and the supplier. The costs of living in Alaska is , anything we can do to reduce the cost will benefit both the consumer and businesses in Alaska. As mentioned, the workers compensation pooling legislation we support has been shown to decrease these costs through reduction in fraud, improved safety efforts and peer pressure.

I and many others in non-profit associations management and other associated industries support this legislation. I'm writing to ask that you also support this legislation. Thank you for your help on this issue of critical importance to the economic health and diversification of our great state.

Sincerely, *Scott Weston* (Owner)

MAR 13 1997

NEW CASTLE BUILDER'S  
JERRY STOCK  
BOX 456 KENAI, AK. 99611  
776-5583

Representative Mark Hodgins  
Room 110, State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Hodgins:

The Alaska State Home Builders Association has been working with the state legislature and the governor to pass legislation that will allow our association and other associations in the state to self insure for workers' compensation insurance through pooling arrangements.

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*Sincerely,  
Jerry L. Stock  
New Castle Builders*

MAR 17 1997

## EXCLUSIVE LANDSCAPING & PAVING, INC.

*General Contractor*  
Contractors License 227811  
Business License 193232

P.O. Box 58136  
Fairbanks, Alaska 99711-0136

Office 488-8833  
Fax 488-8999

1570 Richardson Highway  
North Pole, Alaska 99705-5943

February 17, 1997

Chair of the Senate  
Labor and Commerce Committee

Dear Loren Leman,

The Alaska State Home Builders Association has been working with the state legislature and governor to pass legislation that will allow our association and other associations in the state to self insure for worker's compensation insurance through pooling arrangements.

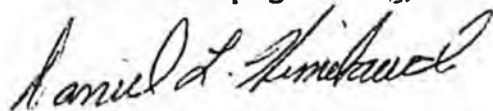
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Thank you for your help on this issue of critical importance to the economic health and diversification of our great state.

Sincerely,  
Exclusive Landscaping & Paving, Inc.



Daniel L. Himebauch, President, CEO

# FAIRBANKS TITLE AGENCY

MAR 17 1997



714 Third Avenue  
Fairbanks Alaska  
99701

907 / 456-6626  
FAX 452-5406

December 24, 1996

Dear Members of the Senate Labor and Commerce Committee:

The Alaska State Home Builders Association has been working with the state legislature and governor to pass legislation that will allow our association and other associations in the state to self insure for workers compensation insurance through pooling arrangements.

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Sincerely,

Mark A. Tomlinson  
President

czm



## Curtiss Construction, Inc.

General Contractor No. AA5731  
 110 Antoinette  
 Fairbanks, Alaska 99701  
 (907)456-7925

MAR 18 1997

Chair of the Senate  
 Labor and Commerce Committee

Dear Loren Leman,

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Thank you for your help on this issue of *critical importance* to the economic health and diversification of our great state.

Sincerely,

**MICHELSON**  
*Construction, Inc* **DAUGHTER**

Design/Build Contractor of Homes & Renovations

750 West Diamond, Suite 100  
Anchorage, Alaska. 99515  
(907) 522-9975 Office (907) 522-9376 Fax

MAR 18 1997

February 20, 1997

Dear Loren Leman Chairman of the Senate Labor and commerce Committee:

The Alaska State Home Builders Association has been working with the state legislature and governor to pass legislation that will allow our association and other association in the state to self insure for workers compensation insurance through pooling arrangements.

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Sincerely,

*Barbara Michelson*  
Barbara Michelson

# GREAT ALASKA LAWN & LANDSCAPING, INC.

MAR 18 1997

Dear Chairman of the Senate Labor and Commerce Committee:

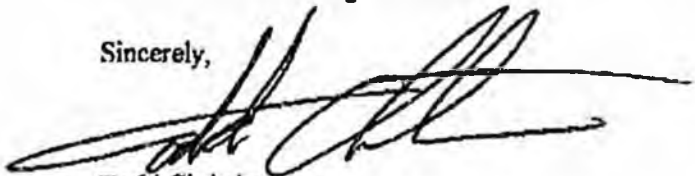
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Sincerely,



Todd Christianson  
President

**"We're the Professionals."**

1301 Huffman Road • Suite 205  
Anchorage, Alaska 99515  
(907) 561-5296 • Fax (907) 345-9025



\*\* TOTAL PAGE.006 \*\*



1301 Huffman Road, Suite 205, Anchorage, Alaska 99515 ♦ Phone (907) 561-5296 ♦ Fax (907) 345-7063

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Sincerely,

A handwritten signature in black ink, appearing to read "Todd Christianson", written over a horizontal line.

Todd Christianson  
President

**TILLY & COMPANY, LTD**  
**TANANA BUILDERS**  
**P.O. BOX 72080**  
**FAIRBANKS, ALASKA 99707**  
**PH: (907) 456-5665 FAX: (907) 452-3175**  
**AA8508**

Feb. 4, 1997

Chair of the Senate  
Labor and Commerce Committee

Dear Loren Leman,

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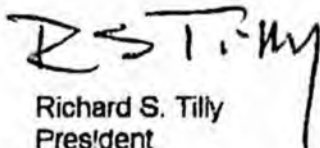
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Sincerely,



Richard S. Tilly  
President  
Tilly & Company  
Tanana Builders

# ALASKA STATE LEGISLATURE

## House of Representatives

**COMMITTEE MEMBERS:**

REPRESENTATIVE NORMAN ROKEBERG, CHAIRMAN  
REPRESENTATIVE JOHN COWDERY, VICE CHAIRMAN  
REPRESENTATIVE BILL HUDSON  
REPRESENTATIVE JOE RYAN  
REPRESENTATIVE JERRY SANDERS  
REPRESENTATIVE TOM BRICE  
REPRESENTATIVE GENE KUBINA  
COMMITTEE HEARING ROOM 17 STATE CAPITOL



INTERIM:  
716 WEST 4TH AVENUE, SUITE 640  
ANCHORAGE, AK 99501  
PHONE: (907) 258-8191  
FAX: (907) 258-2918

SESSION:  
STATE CAPITOL ROOM 24  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4954  
FAX: (907) 465-2040

## Labor and Commerce Committee

**Letters of Support**  
**Distributed to Labor and Commerce Committee**

FEB 27 1997

- Licensed
- Bonded
- Insured

**HORTON PLUMBING & HEATING**

P.O. BOX 2252

• SOLDOTNA, ALASKA 99669

• (907) 262-9475

February 14, 1997

Representative Norman Rokeberg, Chairman House Labor & Commerce  
Room 24, State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Rokeberg and Committee Members:

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