

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9612 SENATE LABOR & COMMERCE



First National Bank
of Anchorage

February 20, 1997

Senator John Torgerson
Room 514, State Capitol
Juneau, Alaska 99801-1182

Dear Senator Torgerson:

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,



February 20, 1997

Senator Loren Leman, Chairman Senate Labor & Commerce
Room 113, State Capitol
Juneau, Alaska 99801-1182

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Sincerely,

Christophe V. Newby
President



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Sincerely,

Christophe Yewby
President

**BUILDERS UNLIMITED
POB 1 BOX 122
SOLBOTNA, AK. 99669
(907) 262-7614**

February 20, 1997

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Room 113, State Capitol
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Sincerely,

*Thank You
Andy Brewster*

**BUILDERS UNLIMITED
RCR 1 BOX 122
SOLDOTNA, AK. 99669
(907) 262-7614**

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Juneau, Alaska 99801-1182

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Sincerely,

*Thank You
Judy Benton*



EAGLE WORKS
BUILDERS

Your Construction and Radiant Heat Consultant

February 20, 1997

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Room 113, State Capitol
Juneau, Alaska 99801-1182

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Sincerely,

A handwritten signature in black ink, appearing to read "Ray Leman". The signature is fluid and cursive, written over a large, faint circular stamp or watermark.

P.O. Box 647
Anchor Point AK, 99558
907-235-6328



LEAGUE OF ALASKA
BUILDERS

Your Construction and Radiant Heat Consultant

February 20, 1997

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Sincerely,

P.O. Box 547
Anchor Point AK. 99558
907-235-8328

BCI *Byford Construction Inc.*

P.O. Box 138

Soldotna, Ak 99669

907-262-6461

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Room 113, State Capitol
Juneau, Alaska 99801-1182

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byford@alaska.net

BCI *Byford Construction Inc.*

P.O. Box 138

Soldotna, Ak 99669

907-262-4461

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Room 514, State Capitol
Juneau, Alaska 99801-1182

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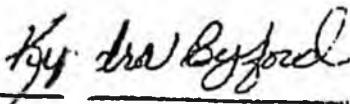
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Sincerely,



byford@alaska.net



Fefelov Construction

Residential Home Builders

Box 3104

Homer, Alaska 99603

February 20, 1997

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Room 113, State Capitol
Juneau, Alaska 99801-1182

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Sincerely,

PETE FEFELOV



Fefelov Construction

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PETE FEFELOV

BEST
TRANSIT MIX, INC.

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Room 113, State Capitol
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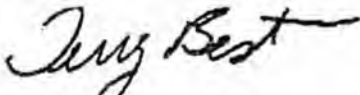
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Terry Best
President

BEST

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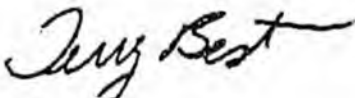
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President

10819 SPUR HWY. SUITE 479 - KENAI, AK 99611
(907) 282-6273

THERMO-KOOL of Alaska, Inc.

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

manufacturers of

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MULCH**

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Hydro-Seeding Mulch

STABLE NEWSTM

Stable News
Animal Bedding

LAWN RE-NEW

A Lawn Repair System

February 20, 1997

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Sincerely,

Tom Davis

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™

Stable News
Animal Bedding

LAWN RE-NEW

A Lawn Repair System

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Sincerely,

Tom Davis



January 21, 1997

Loren Lemay
Chairman of the Senate Labor
& Commence Committees

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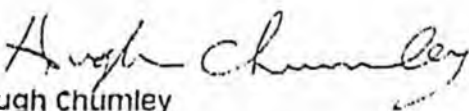
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Sincerely,


Hugh Chumley
General Manager



100 Pt. Roberts Rd
Juneau, Ak 99801
Phone: (907)586-3960

Arrowhead LP Gas

Dear Member of the Senate Labor and Commerce Committee,

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Sincerely, *Ken Hotal*

Associate Member
Home Builders Association of Juneau, Inc



ABC General Contracting
1503 2nd Ave.
Fairbanks, Alaska 99701
(907) 457-2221
Fax (907) 457-5045
e-mail abcsidin@mosquitonet.com

January 22, 1997

The Honorable Loren Leman
Chair of the Senate Labor
and Commerce Committees

Senator;

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Respectfully,

John R. Ellison
ABC General Contracting

**uresco construction materials, inc.**

8246 So. 194th P.O. Box 1778
Kent, WA 98035-1778

1/22/97

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Sincerely


Daryl Sobek
Uresco Construction Materials



January 22, 1997

Dear Chairman of the State 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 worker's 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, worker's 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 worker's 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.

Worker's compensation costs are a substantial portion of the costs of building a new house in Alaska. The average worker's 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 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 worker's 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 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,

Charles A. Hansen
President

P.O. Box 110768 • Anchorage, AK 99511
Phone: (907) 243-4688 FAX: (907) 243-4922



Homesteaders Lumber and Hardware

Post Office Box 320649
Big Lake, Alaska 99652

Dear Members of the Senate Labor and Commerce and 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 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 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 \$4,000 to \$6,000. This cost places a burden on 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 associated industries support this legislation. I'm writing to ask that you also support this legislation. Thank you for your help on the issue of critical importance to the economic health and diversification of our great state.

Sincerely,

Phone

Big Lake (907) 892-6001
Wasilla (907) 373-7001
Truss Plant (907) 892-6126

Fax

Big Lake (907) 892-6223
Wasilla (907) 373-6223
Truss Plant (907) 892-6232

Alaska Best Plumbing & Heating, Inc.
1845 Caribou Way
Fairbanks, Alaska 99709
(907) 455-6506 Office (907) 455-4871 Fax

Dear Chairman of the Senate Labor and Commerce Committees:


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.

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 tend to focus on fraud and safety issues much more closely than their previous for profit insurance companies causing rates to dramatically decrease.

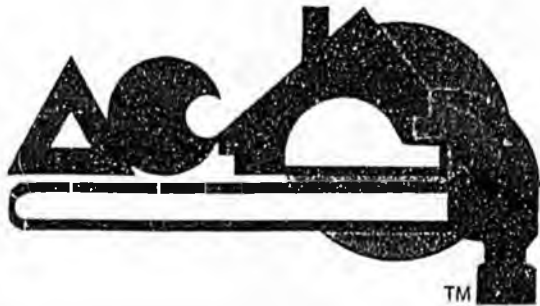
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Sincerely,



Jeff Bovee,
Manager



**ALASKA CRAFTSMAN™
HOME PROGRAM, INC.**

900 WEST FIREWEED LANE SUITE 201
Anchorage, Alaska 99503-2509
(907) 258-2247 Fax: 258-5352
email: achp@alaska.net



January 23, 1997

Senator Loren Leman Chairman
Senate Labor and Commerce Committee
Alaska State Legislature

Dear Senator Leman.

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 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 \$4,000 to \$6,000. This cost places a burden on both the consumer of that house and the builder of that house. New housing is expensive in Alaska, and 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 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,


Sam Halterman
Technical Director

blu Spruce

8752 North Douglas Hwy. • Juneau, Alaska 99801

CONSTRUCTION, inc.

AA21445 • (907) 586-6158

26 January 1997

Senator Loren Leman, Chairman
Senate Labor and Commerce Committee

Dear Senator Leman and Members of the Senate:

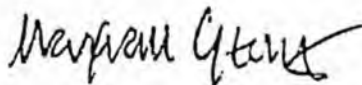
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This type of legislation has been enacted in over forty other states with fourteen of these states utilizing the pooling process. As a consequence, workers compensation costs have decreased dramatically for those members of state home builders associations 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 much more closely than their previous for profit insurance companies causing rates to dramatically decrease.

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I and hundreds of others in the home building and other 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.

Respectively,



Marquam George, President

SB

104

Revision Date: _____ Dept. Affected: Revenue
 Title: Omnibus Insurance Reform BRU: Revenue Operations
 Component: Treasury
 Sponsor: Senate Rules
 Requester: (S) L&C COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	65.5	485.1	485.1	485.1	485.1	485.1
------------------------	------	-------	-------	-------	-------	-------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The legislation allows the annual payment date to be changed to a quarterly payment date. The anticipated change in revenue is based upon receiving approximately \$28.0 million in tax from 28 to 243 days earlier than at present.

Prepared by: Vern Voss, Cash Manager and Investment Officer Phone: 465-2360
 Division: Treasury Date: March 24, 1997
 Approved by Commissioner: Ross Kinney, Deputy Commissioner Date: March 24, 1997
 Agency: Department of Revenue

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 104

Revision Date: _____
 Title: An Act relating to regulation and examination of
insurers and insurance agents
 Sponsor: Senate Rules
 Requestor: _____

Department: Commerce and Economic Development
 BRU: Insurance
 Component: Insurance

COMPONENT SERIAL NO. 354

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ \$0.00

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 There is no fiscal impact on the component.

Prepared by:	Marianne K. Burke, Director <i>Marianne K. Burke</i>	Phone: <u> </u> 465-2515
Division:	Insurance	Date: <u> </u> March 11, 1997
Approved by Commissioner:	William L. Hensley <i>William L. Hensley</i>	Date: <u> </u> 3-11-97
Agency:	Commerce and Economic Development	

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SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/25/97

FURTHER: Finance

Date of 5-Day Notice: 3-20-97
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4-4-97

Labor and Commerce Committee considered

SENATE BILL NO. 104

OMNIBUS INSURANCE REFORM

and recommends:

- be replaced with CS SB 104 (L&C)
- adopt previous CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Tom Kelly</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>[Signature]</i>		CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Revenue	3/24	<input checked="" type="checkbox"/>	
(L&C)	3/11	<input checked="" type="checkbox"/>	

*FN to CS
yet to come*

- no fiscal note

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

*include fiscal notes accompanying Governor's bill

AMENDMENT

OFFERED IN THE SENATE

TO: SB 104

1 Page 6, lines 15 - 19:

2 Delete "most recently adopted by the National Association of Insurance
3 Commissioners and supplemented with additional information as required [FOR A LIFE
4 AND HEALTH INSURER OR FOR A PROPERTY AND CASUALTY INSURER
5 ADOPTED BY REGULATION] by the director [UNDER AS 21.14.010]"

6 Insert "for a life and health insurer or for a property and casualty insurer adopted by
7 order of [REGULATION BY] the director after an open meeting as provided under
8 AS 44.62.310 [AS 21.14.010]"

9 Page 8, line 30:

10 Following "in":

11 Insert "(d) or"

12 Following "reserves":

13 Insert "for policies issued after July 1, 1997,"

14 Page 9, line 3:

15 Delete "individual disability income"

16 Insert "health insurance"

17 Page 9, line 6:

18 Delete "individual disability income"

19 Insert "health insurance"

20 Page 9, line 10:

21 Delete "and"

*Page 6, lines 23-24
23 has (d) and*

*Page 8, line 30
Page 9, line 30*

2



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189 Session: State Capitol, Juneau, AK 99801 (907) 465-2095

MEMO

TO: Mike Ford, Legislative Counsel
Legislative Legal Services
via fax: 2029 3 pages

FROM: Annette Kreitzer, Aide to
Senate Labor & Commerce Committee

DATE: April 1, 1997

RE: Committee Substitute for SB 104

Please incorporate the attached amendment (2 pages LS0407\B.4). into a work draft committee substitute for SB 104. SB 104 will be back before the committee Thursday, April 3.

BLACK'S LAW DICTIONARY[®]

Definitions of the Terms and Phrases of
American and English Jurisprudence,
Ancient and Modern

By

HENRY CAMPBELL BLACK, M. A.

SIXTH EDITION

BY

THE PUBLISHER'S EDITORIAL STAFF

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Certified Public Accountant, Bolton, MA

ST. PAUL, MINN.
WEST PUBLISHING CO.
1990

ordinary circumstances when entity having power of eminent domain substantially deprives property owner of right to beneficial use and enjoyment of property as consequence of nonappropriative rather than appropriative act. In re Condemnation By Com., Dept. of Transp., 96 Pa.Cmwlth. 68, 506 A.2d 990, 993.

De faire échelle /də fēr eyshél/. In French law, a clause commonly inserted in policies of marine insurance, equivalent to a license to touch and trade at intermediate ports.

Defalcation /diyfolkéyshən/. The act of a defaulter; act of embezzling; failure to meet an obligation; misappropriation of trust funds or money held in any fiduciary capacity; failure to properly account for such funds. Commonly spoken of officers of corporations or public officials.

For purposes of Bankruptcy Code section making non-dischargeable a debt resulting from fraud or defalcation by debtor while acting in fiduciary capacity, is failure to meet an obligation, misappropriation of trust funds or money held in any fiduciary capacity, and failure to properly account for such funds. In re Anderson, Bkrcty.N.D.Ill., 64 B.R. 331, 334.

Also set-off, recoupment or counterclaim. The diminution of a debt or claim by deducting from it a smaller claim held by the debtor or payor. See Defalk.

Defalk. To set off one claim against another; to deduct a debt due to one from a debt which one owes. This verb corresponds only to the second meaning of "defalcation" as given above; i.e. a public officer or trustee who misappropriates or embezzles funds in his hands is *not* said to "defalk."

De falso iudicio /diy fōlsow juwdishiyow/. Writ of false judgment.

De falso moneta /diy fōlsow mōniyətə/. Of false money. The title of the English statute 27 Edw. I, ordaining that persons importing certain coins, called "pollards," and "crokards," should forfeit their lives and goods, and everything they could forfeit.

Defamacast /dəféməkæst/. Defamation by broadcast. American Broadcasting-Paramount Theatres, Inc. v. Simpson, 106 Ga.App. 230, 126 S.E.2d 873, 879.

Defamation. An intentional false communication, either published or publicly spoken, that injures another's reputation or good name. Holding up of a person to ridicule, scorn or contempt in a respectable and considerable part of the community; may be criminal as well as civil. Includes both libel and slander.

Defamation is that which tends to injure reputation; to diminish the esteem, respect, goodwill or confidence in which the plaintiff is held, or to excite adverse, derogatory or unpleasant feelings or opinions against him. Statement which exposes person to contempt, hatred, ridicule or obloquy. McGowen v. Prentice, La. App., 341 So.2d 55, 57. The unprivileged publication of false statements which naturally and proximately result in injury to another. Wolfson v. Kirk, Fla.App., 273 So.2d 774, 776.

To recover against a public official or public figure, plaintiff must prove that the defamatory statement was published with malice. Malice as used in this context means that it was published either knowing that it was false or with a reckless disregard as to whether it was true or false. New York Times Co. v. Sullivan, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686.

A communication is defamatory if it tends so to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him. The meaning of a communication is that which the recipient correctly, or mistakenly but reasonably, understands that it was intended to express. Restatement, Second, Torts §§ 559, 563.

See also Actionable per quod; Actionable per se; Journalist's privilege; Libel; Slander.

Defamatory. Calumnious; containing defamation; injurious to reputation; libelous; slanderous. See Defamation.

Defamatory libel. Written, permanent form of defamation as contrasted with slander which is oral defamation. See Libel.

Defamatory per quod /dəfāmətōriy pār kwōd/. In respect of words, those which require an allegation of facts, aside from the words contained in the publication, by way of innuendo, to show wherein the words used libel the plaintiff. See Actionable per quod.

Defamatory per se /dəfāmətōriy pār siy/. In respect of words, those which by themselves, and as such, without reference to extrinsic proof, injure the reputation of the person to whom they are applied. Conrad v. Allis-Chalmers Mfg. Co., 228 Mo.App. 817, 73 S.W.2d 438, 446. See Actionable per se.

Defames /dəféymiyz/. L. Fr. Infamous.

Default. By its derivation, a failure. An omission of that which ought to be done. Town of Milton v. Eruso, 111 Vt. 82, 10 A.2d 203, 205. Specifically, the omission or failure to perform a legal or contractual duty, Easterwood v. Willingham, Tex.Civ.App., 47 S.W.2d 393, 395; to observe a promise or discharge an obligation (e.g. to pay interest or principal on a debt when due), Bradbury v. Thomas, 135 Cal.App. 435, 27 P.2d 402; or to perform an agreement, Eastman v. Morgan, D.C.N.Y., 43 F.Supp. 637, 641. The term also embraces the idea of dishonesty, and of wrongful act, Greco v. S. S. Kresge Co., 277 N.Y. 26, 12 N.E.2d 557, 562; or an act of omission discreditable to one's profession, Hilkert v. Canning, 58 Ariz. 290, 119 P.2d 233, 236.

Under the U.C.C. "default" is left undefined, §§ 9-501-507, though it is precisely what the parties agree that it is. Borochoff Properties, Inc. v. Howard Lumber Co., 115 Ga.App. 691, 155 S.E.2d 651.

Default-judgment. Judgment entered against a party who has failed to defend against a claim that has been brought by another party. Under Rules of Civil Procedure, when a party against whom a judgment for affirmative relief is sought has failed to plead (i.e. answer) or

There is no fixed age when a child becomes emancipated (though it is usually upon reaching majority); it does not automatically occur on reaching majority. *Turner v. McCune*, Mass.App., 357 N.E.2d 942.

In Roman law, the enfranchisement of a son by his father, which was anciently done by the formality of an imaginary sale. This was abolished by Justinian, who substituted the simpler proceeding of a manumission before a magistrate.

Emancipation proclamation. An executive proclamation, issued January 1, 1863, by Abraham Lincoln, declaring that all persons held in slavery in certain designated states and districts were and should remain free.

Embargo /əmbərgow/. A proclamation or order of government, usually issued in time of war or threatened hostilities, prohibiting the departure of ships or goods from some or all ports until further order. Government order prohibiting commercial trade with individuals or businesses of other specified nations. Legal prohibition on commerce.

The temporary or permanent sequestration of the property of individuals for the purposes of a government, e.g., to obtain vessels for the transport of troops, the owners being reimbursed for this forced service.

Embassador. See Ambassador.

Embassy /əmbəsiy/ or **Embassage** /əmbəsəj/. Mission, function, business, or official residence of an ambassador. Body of diplomatic representatives headed by ambassador. See Ambassador.

Ember Days. In ecclesiastical law, those days which the ancient fathers called "*quatuor tempora jejunii*" are of great antiquity in the church. They are observed on Wednesday, Friday, and Saturday next after Quinquagesima Sunday, or the first Sunday in Lent, after Whitsuntide, Holyrood Day, in September, and St. Lucy's Day, about the middle of December. Our almanacs call the weeks in which they fall the "Ember Weeks," and they are now chiefly noticed on account of the ordination of priests and deacons; because the canon appoints the Sundays next after the Ember weeks for the solemn times of ordination, though the bishops, if they please, may ordain on any Sunday or holiday.

Embezzlement. The fraudulent appropriation of property by one lawfully entrusted with its possession. To "embezzle" means willfully to take, or convert to one's own use, another's money or property, of which the wrongdoer acquired possession lawfully, by reason of some office or employment or position of trust. The elements of "offense" are that there must be relationship such as that of employment or agency between the owner of the money and the defendant, the money alleged to have been embezzled must have come into the possession of defendant by virtue of that relationship and there must be an intentional and fraudulent appropriation or conversion of the money. *State v. Thyfault*, 121 N.J.Super. 487, 297 A.2d 873, 879. The fraudulent conversion of the property of another by one who has lawful possession of the property and whose fraudulent

conversion has been made punishable by statute. For federal crimes involving embezzlement, see 18 U.S.C.A. § 641 et seq. See also Conversion. Compare Theft.

Emblemata triboniani /embleməta trəbōwniyéynay/. In the Roman law, alterations, modifications, and additions to the writings of the older jurists, selected to make up the body of the Pandects, introduced by Tribonian and his associates who constituted the commission appointed for that purpose, with a view to harmonize contradictions, excise obsolete matter, and make the whole conform to the law as understood in Justinian's time, were called by this name.

Emblements /emblemənts/. Crops annually produced by labor of tenant. Corn, wheat, rye, potatoes, garden vegetables, and other crops which are produced annually, not spontaneously, but by labor and industry. *Finley v. McClure*, 222 Kan. 637, 567 P.2d 851, 853. The doctrine of emblements denotes the right of a tenant to take and carry away, after his tenancy has ended, such annual products of the land as have resulted from his own care and labor. See Fructus industriales.

Emblers de gentz /emblərz də jents/. L. Fr. A stealing from the people. The phrase occurs in the old English rolls of parliament: "Whereas divers murders, *emblers de gentz*, and robberies are committed," etc.

Embraceor /embréysər/. A person guilty of the offense of embracery (q.v.).

Embracery /embréysəriy/. The crime of attempting to influence a jury corruptly to one side or the other, by promises, persuasions, entreaties, entertainments, *douceurs*, and the like. The person guilty of it is called an "embraceor." This is both a state and federal (18 U.S.C.A. §§ 1503, 1504) crime, and is commonly included under the offense of "obstructing justice". See Obstructing justice.

Emenda /eméndə/. Amends; something given in reparation for a trespass; or, in old Saxon times, in compensation for an injury or crime.

Emendare /iyməndəriy/. In Saxon law, to make amends or satisfaction for any crime or trespass committed; to pay a fine; to be fined. *Emendare se*, to redeem, or ransom one's life, by payment of a wergild.

Emendatio /eməndéysh(iy)ow/. In old English law, amendment, or correction. The power of amending and correcting abuses, according to certain rules and measures.

In Saxon law, a pecuniary satisfaction for an injury; the same as *emenda* (q.v.).

Emendatio panis et cerevisie /eməndéysh(iy)ow pəns èt sərviz(h)iyiy/. In old English law, the power of supervising and correcting the weights and measures of bread and ale (assising bread and beer).

E mera gratia /iy mirə gréysh(iy)ə/. Out. of mere grace or favor.

Emerge /əmərj/. To arise; to come to light.

Emergency. A sudden unexpected happening; an unforeseen occurrence or condition; perplexing contingency.

DICTIONARY
OF
LEGAL TERMS

A Simplified Guide to the Language of Law

by Steven H. Gifis
Associate Professor of Law
Rutgers University School of Law/Newark

BARRON'S EDUCATIONAL SERIES, INC.
Woodbury, New York • London • Toronto • Sydney

defalcation

EXAMPLE: Nursing homes were established throughout a particular state under the authority of a newly enacted state law. Now, two years later, portions of the law are found to be unconstitutional. Instead of closing all the homes that were set up, the state permits them to continue to operate under its *de facto* authority until the law is amended and legal.

The de facto acts of a person or entity may for some purposes be regarded as legally binding. Compare *de jure*.

→ **DEFALCATION** failure of one entrusted with money to pay over the money when it is due to another. The term is like misappropriation and embezzlement, but is wider in scope because it does not imply criminal fraud.

DEFAMATION the publication of anything injurious to the reputation of another. Defamation designed to be read is libel; oral defamation is slander.

EXAMPLE: A reporter publishes an article that Ryan is being investigated for misapplication of public funds. The article has no basis in fact, but, as a result of it, Ryan is forced to temporarily leave his position as director. Ryan has been libeled and probably has a *defamation* action against the reporter.

DEFAULT failure to discharge a duty. The term is often used in the context of mortgages to describe failure of the mortgagor to pay installments when due, and in the context of judicial proceedings to describe failure of one of the parties to take procedural steps to prevent entry of a judgment against him (called a default judgment). See *delict*.

DEFAULT JUDGMENT 1. a judgment against defendant who has failed to respond to plaintiff's action or to appear at the trial or hearing.

EXAMPLE: A carpenter files a suit against a homeowner, claiming that the homeowner failed to pay the carpenter for work performed six months ago. Under the state's court rules, the homeowner has twenty days to file an answer to the carpenter's claim. If the homeowner fails to do so within twenty days, the court will enter a *default judgment* against him

declaring that the honor is claimed.

2. judgment given in his own defense. Compare

DEFEASANCE an instrument of a deed or of a will; or of another deed upon

DEFEASIBLE subject to not met; capable of being such avoidance or annulment

DEFECTIVE 1. incomplete a use that can be reasonable liability; warranty.

DEFECTIVE TITLE unnecessary reference to land, it makes the conveyance might be subject to part one else.

EXAMPLE: Ruth wants moving into the state. friend has a title search claimed ownership of the bank discloses a bank note that bank has never acted upon gives rise to a *defective* reluctant to buy the house

2. As to negotiable instrument obtained through fraud

DEFENDANT 1. in civil to the complaint; one who satisfaction for a wrong criminal proceedings, the accused

election under the will

not chosen are waived. Thus, while the plaintiff may seek the alternative remedies of specific performance or damages for a breach of contract, he may not ask for alternative inconsistent remedies such as rescission and damages, since rescission elects to treat the contract as void and the request for damages seeks to enforce a valid contract. Many jurisdictions do not require election of remedies until late in the proceedings.

ELECTION UNDER THE WILL the principle that to take under a will is to submit to all its provisions. Specifically, it consists of the choice of accepting the benefit given under the will and relinquishing a claim, such as dower, that one may have to a portion of the estate of another, or retaining that claim and rejecting the request provided by the will.

ELEMENT an ingredient or factor, as the elements of an offense.

EMANCIPATION 1. freeing of someone from control of another; 2. express or implied relinquishing by a parent of rights in, or authority and control over, a minor child.

➔ **EMBEZZLEMENT** fraudulent appropriation for one's own use of property lawfully in his possession, a type of larceny that did not exist in common law because it does not involve a trespassory taking; thus it is a crime created by statute. Embezzlement is often associated with bank employees, public officials or officers of organizations, who may in the course of their lawful activities come into possession of property, such as money, actually owned by others.

EXAMPLE: A bank teller finds herself short of cash one month, so she takes some money out of the deposits she receives, with the full intention of returning it in a few weeks. Her intent to return the money, though, has no relevance to the fact that she *embezzled* money. Her only defense in this instance would be that she thought the money was hers or that she had the owner's consent to borrow the money.

Compare defalcation; misapplication [misappropriation] of property.

EMBLEMMENTS
remove crops
expired before
produced annu
personal prop
before the har

EMBRACERY
to bribe or corr
PERING. See o

EMINENT DOM
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the property ow
main; public e

EMOLUMENT
or labor, inclu

EMPLOYEE STO
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EMPLOYER'S LI
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of employment.
have replaced t
liable only for
owed the empl
risk; fellow se

ENABLING CLAU
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enforce the law

EXAMPLE: A
housing is passe
permitting the
ment to spend



Health Insurance Association of America

Post-it [®] Fax Note 7671		Date 3/26/97	# of pages 2
To K. Campbell	From Bill Weller		
Co./Dept. Alaska Ins Div.	Co. HIAA		
Phone # 465-4607	Phone # 202-824-1703		
Fax # 907-465-3422	Fax #		

MEMO

DATE: March 26, 1997

TO: Katherine Campbell, Alaska Division of Insurance

FROM: Bill Weller

SUBJECT: Reserve Standards for Health Insurance

Senate Bill No. 104 contains sections 14 and 15 which deal with minimum reserve standards for health insurance. They are patterned after the NAIC model which HIAA supports. I do have several questions with regards to the wording of section 15, particularly amendments to Section 21.18.082 on Policy Reserves.

Since this is a new law for Alaska, we would ask that the minimum standards in the law be limited to prospective application. This means that previously issued contracts would be subject to the requirements of Section 21.18.080 which specifies an adequate reserve based on a gross premium valuation. It would allow for the use of termination rates and interest rates which had been used in prior reserve reporting which do not meet the minimum standards in 21.18.082. We would find acceptable a provision which required reserves for previously issued policies to be based on assumptions approved by the Commissioner, or if Alaska has not required such the Commissioner of the State of domicile, for year end 1996. This would avoid de-strengthening of reserves.

Section 21.18.082(g) should read "Except as provided in (d), or (h) - (k) of this section..." This is needed since (d) provides for the use of termination rates in situations other than LTC.

Section 21.18.082(g)(1) and (2) should change "individual disability income policy" to "health insurance policy" since this law applies to "all individual and group health insurance policies" per (a) of this section.

Section 21.18.082(g)(3) should be changed so that (A) ends after 'without projection:', the next portion of (A) becomes '(B) a lapse assumption for policy durations one through four equal to the lesser of 80 percent of the voluntary lapse rate used in the calculation of gross premiums or eight percent; and' with current (b) changed to (C) with no change in wording. This would make it clear

that the mortality assumption in (A) is in addition to both of the voluntary lapse assumptions in (B) and (C).

Please let me know if you have any questions about these comments. We are willing to assist drafting the necessary amendments to the bill to make these corrections. My number is 202-824-1703. My fax number is 202-824-1668.

c/c: Beth Sweet, HIAA



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JUNEAU 217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-3222 ■ Fax (907) 463-5480

MAR 08 1997

Memorandum

To: Senator Loren Leman, Chair, Senate Labor & Commerce Committee
Marianne Burke, Director, Division of Insurance, Alaska Dept. of Commerce

From: Kevin Smith, Risk Manager *KS*

Date: March 6, 1997

Re: SB104 - Insurance Omnibus Bill

In a recent conversation with Marianne Burke from the Division of Insurance, she explained the purpose of SB104 as an effort to cleanup existing conflicts and non-compliance issues within the insurance statutes. To that end, the Alaska Municipal League Joint Insurance Association would like to propose the following friendly amendment to Section 45 of SB104.

Page 24, lines 23-26

D.V. of Sec. 45

Sec. 45. AS21.76.080(e) is amended to read:

(e) By December 1 of each year. ¹⁵⁰ [WITHIN 60 DAYS OF THE END OF THE FISCAL YEAR,] the administrator shall furnish a detailed report of the operation and condition of the fund to the board of directors and the director of the division of insurance.

Changing the timing of the annual report to December allows sufficient time to complete the required actuarial analysis in AS 21.76.020(b) (SB104, Section 45), and incorporate this relevant material into our annual report which is provided to our membership at our annual meeting in mid-November of each year. This is the report which we will share with the division. In addition, it meets the overall goal of SB104, which is to make compliance possible.

The Division of Insurance has no problem with this amendment.

(SB 104)
SECTIONAL ANALYSES

Section 1. AS 21.06.050

The Division of Insurance has routinely secured public input on insurance regulatory issues using a variety of advisory committees. Volunteers, including many insurance professionals providing technical input, have served without compensation from the state, recognizing that if transportation or per diem expenses were paid by the division the costs would be passed back to them through higher license fees or higher insurance premiums reflecting increased administrative costs. The possibility that payment might be required under AS 39.20.180 has recently been brought to the division's attention. This section would reaffirm that persons participating on division advisory committees do not receive payment for transportation or per diem expense.

Section 2. AS 21.06.110

Updates information required to be included in the division's annual report to reflect current practices regarding issuance of certificates of authority and primary regulation of domestic insurers.

Section 3. AS 21.06.160(a). Examination Cost.

Clarifies this subsection to allow the calculation of a reasonable per hour charge for examination services to include approximated division overhead expenses such as word processing services, facilities and supplies, computer systems, etc. and that out-of-pocket expenses including travel costs shall be paid by the person being examined.

Section 4. AS 21.09.210(b). Premium Tax Payment - Admitted Insurers.

Allows the director to determine the method of payment of premium taxes to reflect technology changes such as electronic payments and to collect premium taxes quarterly.

Section 5. AS 21.09.210(d). Premium Tax Payment - Admitted Wet Marine and Transportation Insurers.

Allows the director to determine the method of payment of premium taxes to reflect technology changes such as electronic payments and to collect premium taxes quarterly.

Section 6. AS 21.09.245. Amendments to Certificate of Authority.

A new section that requires an authorized insurer to file with the division within 30 days a name change, domiciliary state change, or other information on its certificate of authority. Amendment to the insurer's articles of incorporation or bylaws, a change of business address or phone number, and other information as designated by the director must be filed within 90 days, and provide for penalties for noncompliance.

Section 7. AS 21.09.320. Maintenance of Records.

This new section that identifies which records are required to be kept by admitted insurers domiciled in another state. Retention times are specified. Domestic insurers are subject to existing and unchanged provisions. The lack of requirements for other admitted insurers has impeded the division's regulatory oversight including examinations and other investigations.

Section 8. AS 21.12.020(a)(4)(A)(iii). Accredited Reinsurer Qualifications.

Removes a requirement for a certification of insurer solvency from an insurer's domiciliary regulator because some foreign countries do not provide such certifications. Certification will still be required from the insurer's public accountant.

Section 9. AS 21.12.050. Health insurance defined.

Revision to this subsection adds stop loss insurance to the definition of health insurance to affirm that life and health insurers are permitted to write stop loss coverage.

Section 10. AS 21.12.050. Stop-loss insurance defined.

Definition of stop-loss insurance as referenced in AS 21.12.050.

Section 11. AS 21.14.010(a). Risk Based Capital Filing.

Clarifies that a domestic insurer must submit its risk based capital report to the director without a specific request.

Section 12. AS 21.14.200(18). Risk Based Capital Instructions.

Clarifies that instructions adopted by the National Association of Insurance Commissioners are to be followed in preparing a risk based capital calculation. Due to the complexity of the calculation, its continual refinement, and insurer need for nationwide consistency, regulations are an inappropriate way to provide instructions to insurers.

Section 13. AS 21.18.050(4). Capital stock and liabilities charged against assets.

Requires that the minimum reserves for health insurance established in AS 21.18.080-21.18.086 be charged against an insurer's admitted assets for the purpose of determining the insurer's statutory financial condition.

Section 14. AS 21.18.080. Reserve standards for health insurance.

Adopts a more well defined and appropriate standard for minimum reserves for health insurance. Requires that reserve adequacy be determined by a gross premium valuation considering the sum of policy reserves, claims reserves, and premium reserves established under AS 21.18.082-AS 21.18.086.

Section 15. New sections are added to provide for minimum health insurance reserve standards.

AS 21.18.082. Policy reserves for health insurance.

Defines which policies require a policy reserve and how to calculate the reserve based on minimum standards relating to interest rates, policy termination, morbidity, and reserve method.

AS 21.18.084. Claim reserves for health insurance.

Establishes that claim reserves are required for all incurred and unpaid claims, including associated expenses, on health insurance policies.

AS 21.18.086. Premium reserves for health insurance.

Establishes premium reserve requirements that include standards for accounting, discounting, methodology, and minimums levels of unearned premium reserves as they relate to policy reserves.

Section 16. AS 21.21.410. Custodian Agreements.

Requires that a written agreement must exist between an insurer and the custodian of its assets, securities, or investments. The agreement must require that the custodian will indemnify for losses if loss results from theft, mysterious disappearance, damage or destruction, or negligence or dishonesty of the

custodian's officers, employees, or agents. The agreement must require the custodian to promptly replace an asset or value of the asset. A bank, trust company, or securities firm may serve as custodian if authorized by the insurer and approved by the director.

Section 17. AS 21.27.010(f)(2)(B).

Editorial revision to make "or" the appropriate connector consistent with identical language in (g)(1) of the section.

Section 18. AS 21.27.010(I). Attorney-in-fact License Exemption.

Clarifies that an attorney-in-fact of a reciprocal insurer who meets the qualifications to be exempt from licensure as an attorney-in-fact is not required to be licensed under AS 21.27 as a managing general agent.

Section 19. AS 21.27.040(a). Application for License.

Codifies current procedure that requires an applicant to certify under oath that the information provided on a license application is true and correct.

Section 20. AS 21.27.370(b). Shared Commissions.

Reaffirms that an unlicensed person may not share or receive a commission or any form of remuneration for business transacted in this state, nor may a licensee share commission or other form of remuneration with an unlicensed person.

Section 21. AS 21.27.390(b). Temporary License.

Conforms AS 21.27 with the requirement to issue a temporary license under AS 25.27.244 (Welfare Reform).

Section 22. AS 21.27.405(b). Investigation; cease and desist order.

Updates procedures to allow the director the flexibility to provide service of notice to a person in the most effective and efficient way.

Section 23. AS 21.27.440(a). Fines.

Provides authority for the director to fine an unlicensed person who illegally transacted the business of insurance and received a commission or other form of remuneration.

Section 24. AS 21.27.640(b)(5)(D). Third Party Administrator License Application.

Gives a third-party administrator applicant an option to submit certified financial statements for its period of operation if operations have been for less than two years in order to remove a barrier to start up operations for an applicant who would otherwise be qualified to act as a third-party administrator.

Section 25. AS 21.34.040(c)(4). Unauthorized Insurers - Lloyd's Syndicates.

Establishes solvency requirements for each syndicate or insurer of Lloyds or a similar operation.

Section 26. AS 21.34.040(c)(5). Unauthorized Insurers - Insurance Exchange.

Establishes solvency requirements for each syndicate of an insurance exchange created by the laws of another state.

Section 27. AS 21.34.180(b). Premium Tax Payment - Unauthorized.

Allows the director to determine the method of payment of premium taxes to reflect technology changes such as electronic payments and to collect premium taxes quarterly.

Section 28. AS 21.34.190(a). Unauthorized Filing Fee.

Clarifies that the one percent fee on gross premiums is calculated on the gross premiums reported on the statement of surplus lines tax required under AS 21.34.180(b), which has been amended to allow the director to require reporting more often than annually.

Section 29. AS 21.36.095(e)(5). Child coverage; enrollment, noncustodial parents and discrimination.

Clarifies that the Comprehensive Health Insurance Association is the entity subject to the requirements of the section.

Section 30. AS 21.36.185.

Establishes a requirement based on the NAIC Model Unfair Trade Practices Act for an insurer to maintain records regarding the complaints it receives. The record will assist the division in evaluating an insurer's consumer practices.

Section 31. AS 21.36.240. Failure to renew.

Clarify that an insurance policy may only be non-renewed on its annual anniversary. This only applies to personal property and casualty insurance.

Section 32. AS 21.36.290. Policy period.

In conjunction with AS 21.36.240, clarifies the annual policy period and assures that rates for personal auto insurance may only be changed once every 6 months, even if the policy is written for a shorter time period.

Section 33. AS 21.36.390. Notice to director.

Adds a requirement that insurers and other licensees report producer defalcations, embezzlements, or violations to the director in much the manner as currently is required for reporting claim fraud. Lack of timely reports to the division has resulted in situations in which harm to the public or other insurers has been exacerbated. Requires licensees as well as insurers to report fraudulent claims.

Section 34. AS 21.39.045(b)-- Risk classification: construction industry.

Clarifies that the credit scale recognizing differences in wages paid applies only to the construction industry.

Section 35. AS 21.42.130(5). Disapproval of forms.

Clarifies that rates for individual health insurance are not subject to approval consistent with current statutes that do not provide a mechanism or guidelines for such rate review.

Section 36. AS 21.42.205. Coordination of benefits.

Requires that benefits provided under health insurance contracts be coordinated. This coordination is applicable only when an individual is covered under more than one health insurance contract.

Section 37. AS 21.42.265.

Clarifies that insurance coverage changes required by a law change become effective at renewal unless the law provides an earlier effective date for the changes.

Section 38. AS 21.54.015. Rate requirements.

Requires that rates for group health insurance contracts not be excessive, inadequate, or unfairly discriminatory to provide a consistent standard for all group health insurers.

Section 39. AS 21.66.110(a). Premium Tax Payment - Title Insurance.

Allows the director to determine the method of payment of premium taxes to reflect technology changes such as electronic payments and to collect premium taxes quarterly.

Section 40. AS 21.66.390(a).

Adds investment income as one of the elements to be considered when evaluating the rates charged by title insurers.

Section 41. AS 21.69.310(a). Annual Meeting Location.

Allows the director upon show of good cause to approve a domestic insurer's request to hold its required annual meeting in a city outside of the location of its principal office or place of business.

Section 42. AS 21.69.520(a). Borrowed Funds.

Requires director approval for an insurer to borrow funds when a written agreement requires that the money be repaid only out of the insurer's excess surplus and removes permission for an insurer to borrow money in this manner for any purpose of the insurer's business.

Section 43. AS 21.75.045(a). Attorney-in-fact License Exemption.

Expands the exception for being licensed as an attorney-in-fact to all reciprocal insurers. The exemption is allowed when the attorney-in-fact is a wholly-owned subsidiary of the reciprocal insurer who only acts for the one reciprocal. Attorneys-in-fact who operate more than one reciprocal insurer must be licensed under this section.

Section 44. AS 21.76.020(b). Joint Insurance Arrangement Reporting.

Specifies that the report prepared by a joint insurance arrangement and filed with the legislative budget and audit committee shall also be filed with the director.

Section 45. AS 21.76.080(e). Joint Insurance Arrangement Reporting.

Allows for the report filed by the joint insurance arrangement with its board of directors and the director to be an audit based on generally accepted accounting principles rather than requirements established by the director. A report filed with the director is open to public inspection unless specifically precluded by statute.

Section 46. AS 21.78.293(b).

In order to reduce litigation over claims and thereby expedite the closure of a receivership estate (to the benefit of insurance policyholders and other claimants), the superior court shall review and adopt the receiver's report on claims by using the substantial evidence standard. The period of disapproving claims is extended to 120 days.

Section 47. AS 21.87.140(c)(1).

Updates terminology of participant provider contract requirements to reflect managed care compensation arrangements as well as traditional indemnity reimbursement.

Section 48. AS 21.87.150(c)(1).

Updates terminology of participant hospital contract requirements to reflect managed care compensation arrangements as well as traditional indemnity reimbursement.

Section 49. AS 21.87.180(a).

Conforms form filing requirements for medical and hospital service corporations to similar requirements for other insurers subject to form filing.

Section 50. AS 21.87.190(b). Subscription rates, fees, and payments.

Clarifies rate filing requirements. Allows the director discretion to protect medical and hospital service corporations from competitive disadvantage that may arise from disclosing rating formulas when other health insurers are not required to file rates for approval and disclose rating formulas.

Section 51. AS 21.87.200. Reserves.

Requires that hospital or medical service corporations have minimum reserve standards and reporting consistent with other health insurers.

Section 52. AS 21.89.020(g) -- Short term auto policy.

Clarifies that the requirements of AS 21.36.210 - 21.36.310 do not apply to seven-day policies.

Section 53. AS 21.90.900(29).

Affirms that certificates or other evidences of insurance covering Alaskans as insureds or beneficiaries under group, trust, association, or similar policies are policies subject to AS 21, including mandated coverages or mandated offers of coverage under AS 21.42.

Section 54. AS 21.90.900(41). Definition.

A new definition to specify what the term "certified financial statement" means in licensing requirements.

Section 55. AS 21.81. Chapter Repeal.

Corrects an oversight by repealing Chapter 81 that was superseded by legislation enacted in 1995 (AS 21.09.310).

Section 56. Effective Date for Certain Sections.

Sections 4, 5, 27, 28, 29, 30, and 41 are to take effect on January 1, 1998.

Section 57. Effective Date.

All other sections are to take effect on July 1, 1997.

§ 21.06.180

INSURANCE

12

upon certification the court shall issue an order directing the person to appear before the court and show cause why the person should not be punished for contempt.

(e) [Repealed, § 22 ch 149 SLA 1984.] (§ 1 ch 120 SLA 1966; am § 22 ch 149 SLA 1984)

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

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

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

Sec. 21.06.190. Stay of action. (a) A demand for a hearing received by the director before the effective date of an order issued or within 10 days after an order is delivered stays the effectiveness of the order pending the hearing and an order made thereon, except as to action taken or proposed under an order

(1) on hearing;

(2) under and supplemental to an order on hearing; or

(3) based upon impairment of assets or unsound financial condition of an insurer.

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

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

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

(b) The director shall permit to become a party to the hearing by intervention, if timely, any person who was not an original party to the proceeding and whose pecuniary interests are to be directly and immediately affected by the director's order made upon the hearing.

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

(d) Upon written request seasonably made by a party to the hearing and at that person's expense, the director shall cause a full stenographic record of the proceedings to be made by a competent reporter. If transcribed, a copy of the stenographic record shall be furnished to the director, without cost to the director or the state, and shall be a part of the director's record of the hearing. If transcribed, a copy of the stenographic record shall be furnished to any other party to the hearing at the request and expense of the

§ 21.09.100

INSURANCE

18

(A) the largest deposit required by this title to be made by a foreign insurer transacting like kinds of insurance; or

(B) \$300,000; which surplus shall for all purposes under this title be considered to be the capital or surplus of the insurer.

(c) Deposits of foreign insurers, or deposits of alien insurers under (b)(3)(A) or (B) of this section in another state shall be in cash or securities of substantially as high quality as those eligible for deposit in this state under AS 21.24.030.

(d) All such deposits in this state are subject to the applicable provisions of AS 21.24. (§ 1 ch 120 SLA 1966; am § 4 ch 206 SLA 1976; am § 11 ch 21 SLA 1985; am § 14 ch 67 SLA 1992)

Effect of amendments. — The 1992 amendment, effective July 1, 1992, deleted "other than title insurers" from the end of subsection (a).

Sec. 21.09.100. Management and affiliations. The director may not grant or continue authority to transact insurance in this state to an insurer whose principal management personnel is found by the director ~~for good cause~~ shown to be untrustworthy or not of good character, or so lacking in insurance company managerial experience as to make the proposed operation hazardous to the insurance-buying public or to its stockholders; or that the director has good reason to believe is affiliated directly or indirectly through ownership, control, management, reinsurance transactions, or other insurance or business relations, with a person or persons whose business operations, to the detriment of insurers, stockholders, or creditors, are or have been marked by manipulation of assets, of accounts, or of reinsurance, or by bad faith. (§ 1 ch 120 SLA 1966)

Sec. 21.09.110. Application for certificate of authority. (a) To apply for an original certificate of authority an insurer shall file with the director its application, accompanied by the applicable fees set under AS 21.06.250, showing its name, location of its home office, or principal office in the United States if an alien insurer, kinds of insurance to be transacted, date of organization or incorporation, form of organization, state or country of domicile, and additional information that the director may reasonably require, together with the following documents, as applicable:

(1) if a foreign insurer, a copy of its corporate charter or articles of incorporation, with all amendments certified by the public officer with whom the originals are on file in the state or country of domicile;

(2) if a reciprocal insurer, copies of the power of attorney of its attorney-in-fact and of its subscribers' agreement, if any, certified by its attorney-in-fact;

(3) a copy of its financial statement as of the preceding December 31, and all subsequent quarterly financial statements, sworn to by at least two executive officers of the insurer, or certified by the public insurance supervisory official of the insurer's state of domicile or of entry into the United States;

(4) a copy of the report of last examination, if any, made of the insurer, certified by the insurance supervisory official of its state of domicile or of entry into the United States;

(5) appointment of the director under AS 21.09.180, as its attorney to receive service of legal process;

(6) if a foreign or alien insurer, a certificate of the public official having supervision of insurance in its state or country of domicile, or state of entry into the United States, showing that it is authorized to transact the kinds of insurance proposed to be transacted in this state;

(7) if an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records; and

(8) if a foreign insurer, a certificate as to deposit if it is to be tendered under AS 21.09.090.

business days after the insurer has received those statements, amendments, other materials, or notices. The expenses of mailing shall be borne by the person making the filing. As security for the payment of those expenses, the person making the filing shall file with the director an acceptable bond or other deposit in an amount to be determined by the director. (§ 1 ch 202 SLA 1976)

Sec. 21.22.050. Jurisdiction and consent to service. The courts of this state are given jurisdiction over every person not resident, domiciled, or authorized to do business in this state who files a statement with the director under this chapter, and over all actions involving that person arising out of violations of this chapter, and each person is considered to have performed acts equivalent to and constituting an appointment of the director to be the lawful attorney of the person upon whom may be served all lawful process in any action or proceeding arising out of a violation of this chapter. Copies of all lawful process shall be transmitted by registered or certified mail by the director to the person at the last known address of the person. (§ 1 ch 202 SLA 1976)

Sec. 21.22.060. Registration required. (a) Every insurer that is authorized to do business in this state and that is a member of an insurance holding company system shall register with the director. An insurer that is subject to registration under this section shall register within 60 days after January 1, 1977 or 15 days after it becomes subject to registration, whichever is later, unless the director for good cause shown extends the time for registration; if the time is extended, the insurer shall register within the extended time.

(b) Every insurer subject to registration shall file a registration statement on a form provided by the director, that must contain current information about

(1) the capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(2) the identity of every member of the insurance holding company system;

(3) the following agreements in force, relationships subsisting, and transactions currently outstanding between the insurer and its affiliates:

(A) loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(B) purchases, sales, or exchanges of assets;

(C) transactions not in the ordinary course of business;

(D) guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(E) all management and service contracts and all cost-sharing arrangements; and

(F) reinsurance agreements; and

(4) other matters concerning transactions between registered insurers and any affiliates that may be included from time to time in a registration form adopted or approved by the director.

(c) The director may permit an authorized insurer that is a member of a holding company system subject to registration under the laws or regulations of its state of domicile that are in the opinion of the director substantially similar to those contained in this chapter to satisfy the requirements of (a) of this section by filing a statement in accordance with the laws of its state of domicile.

(d) Information need not be disclosed on the registration statement filed under (b) of this section if that information is not material for the purposes of this section. Unless the director by regulation or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments, or the aggregate of a series of related transactions, involving one-half of one percent or less of an insurer's admitted assets or five percent or less of the policyholder's surplus as of the 31st day of December of the calendar year in which the transaction took place are not considered material for purposes of this section.

with it are equitable in terms and proper in form; and (3) the agreements made or proposed are equitable to present and future shareholders, subscribers, members, or policyholders, the director shall give notice to the applicant that the director will issue a solicitation permit, stating the terms to be contained in it, upon the filing of the bond required by AS 21.69.140.

(b) If the director does not so find, or if the director finds that any of the persons named in the application as being associated or to be associated in the formation of the insurer, corporation, or syndicate are untrustworthy, the director shall give notice to the applicant that the permit will not be granted, stating the grounds therefor, and shall refund to the applicant all sums deposited except the application fee. (§ 1 ch 120 SLA 1966)

Sec. 21.69.090. Issuance of permit. Upon the filing of the bond required by AS 21.69.140 after notice by the director, the director shall

- (1) file the articles of incorporation of the proposed incorporated insurer or other corporation with the commissioner;
- (2) issue to the applicant a solicitation permit. (§ 1 ch 120 SLA 1966)

Sec. 21.69.100. Duration of permit. Every solicitation permit issued by the director must

- (1) be for a period of not over two years, subject to the right of the director to grant a reasonable extension for good cause;
- (2) state the securities for which subscriptions are to be solicited, the number, classes, par value, and selling price thereof, or identify the insurance contract for which applications and advance premiums or deposits are to be solicited;
- (3) limit the portion of funds received on account of stock or syndicate subscriptions, if any are proposed to be taken, which may be used for promotion and organization expenses to an amount the director considers adequate, but in no event to exceed 15 per cent of the funds as and when actually received;
- (4) if to be a mutual or reciprocal insurer, limit the portion of funds received on account of applications for insurance that may be used for promotion or organization expenses to a reasonable commission upon the funds, giving consideration to the kind of insurance and policy involved and to the costs incurred by insurers generally in the production of similar business, and provide that no commission shall be considered to be earned or be paid until the insurer has received its certificate of authority and the policies applied for and upon which the commission is to be based, have been actually issued and delivered;
- (5) contain other information required by this chapter or reasonable conditions relative to accounting and reports or otherwise that the director considers necessary. (§ 1 ch 120 SLA 1966)

Sec. 21.69.110. Permit as inducement prohibited. The granting of a solicitation permit is permissive only and does not constitute an endorsement by the director of any person or thing related to the proposed insurer, corporation, or syndicate and the existence of the permit may not be advertised or used as an inducement in a solicitation. The substance of this section in bold faced type not less than 10 point shall be printed at the top of each solicitation permit. (§ 1 ch 120 SLA 1966)

Sec. 21.69.120. Solicitors' licenses. Solicitation for sale of securities to members of the public under a solicitation permit shall be made only by individuals licensed under the provisions of the securities act. (§ 1 ch 120 SLA 1966)

Sec. 21.69.130. Modification, revocation of permit. (a) The director may, for cause, modify a solicitation permit, or may, after a hearing, revoke a solicitation permit for violation of a provision of this title, or of the terms of the permit, or of a proper order of the director, or for misrepresentation.

(b) The court may approve, disapprove, or modify the receiver's report on claims. Claims in a report that are not modified by the court within a period of 60 days following submission by the receiver shall be treated by the receiver as allowed claims. (§ 80 ch 50 SLA 1990)

Sec. 21.78.294. Distribution of assets. Under the direction of the court, the receiver shall distribute assets in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including third-party claims. Distribution of assets in kind may be made at valuations set by agreement between the receiver and the creditor, and approved by the court. (§ 80 ch 50 SLA 1990)

Sec. 21.78.295. Unclaimed and withheld money. (a) All unclaimed money that is subject to distribution and remains in the receiver's hands when the receiver is ready to apply to the court for discharge, including the amount distributable to a creditor, shareholder, member, or other person who is unknown and cannot be found, shall be deposited with the Department of Revenue, and shall be paid, without interest, to the person entitled to receive it or to the person's legal representative upon proof satisfactory to the Department of Revenue of the person's right to it. Notwithstanding the provisions of AS 34.45, an amount on deposit with the Department of Revenue that is not claimed within six years after the discharge of the receiver, is considered to be abandoned, and shall, without further proceedings, be deposited in the general fund.

(b) All money retained for claims described in AS 21.78.280 and not distributed, shall, upon discharge of the receiver, be deposited with the Department of Revenue and paid in accordance with AS 21.78.260. Any amount remaining that, under AS 21.78.260, would revert to the undistributed assets of the insurer, shall be transferred to the Department of Revenue. Remaining amounts become the property of the state under (a) of this section, unless the director, in the director's discretion, petitions the court to reopen the liquidation under AS 21.78.297. (§ 80 ch 50 SLA 1990)

Sec. 21.78.296. Termination of proceedings. (a) When all assets justifying the expense of collection and distribution have been collected and distributed under this chapter, the receiver shall apply to the court for discharge. The court may grant the discharge and make additional orders the court considers appropriate.

(b) Any other person may apply to the court at any time for an order under (a) of this section. If the application is denied, the applicant shall pay the receiver's costs and expenses incurred in resisting the application, including a reasonable attorney fee. (§ 80 ch 50 SLA 1990)

Sec. 21.78.297. Reopening liquidation. After the liquidation proceeding has been terminated and the receiver discharged, the director or an interested party may at any time petition the court to reopen the proceedings for good cause including the discovery of additional assets. If the court is satisfied that there is justification for reopening, it shall order the liquidation proceeding reopened. (§ 80 ch 50 SLA 1990)

Sec. 21.78.298. Disposition of records during and after termination of liquidation. If it appears to the director that the records of an insurer that is in the process of liquidation or is completely liquidated, are no longer useful, the director may recommend to the court, and the court shall direct, which records should be retained for future reference and which should be destroyed. (§ 80 ch 50 SLA 1990)

Sec. 21.78.300. Report and petition for assessment. Within three years after the date of the entry of an order of rehabilitation or liquidation of a domestic mutual insurer

*Background information
for Section 34 of
SB 104.*



LAWS OF ALASKA

1995

Source
CCS HB 237

Chapter No.
75

AN ACT

Relating to workers' compensation insurance rate filings; to second independent medical evaluations for workers' compensation claims; to confidentiality of workers' compensation medical and rehabilitation information; to immunity for third-party design professionals from civil actions by recipients of workers' compensation benefits; to workers' compensation death benefits; to computation of workers' compensation benefits; to penalties for fraudulent acts related to workers' compensation; to immunity for employer workplace safety inspections related to workers' compensation insurance.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 6, 1995
Actual Effective Date: September 4, 1995

AN ACT

1 Relating to workers' compensation insurance rate filings; to second independent medical
2 evaluations for workers' compensation claims; to confidentiality of workers' compensation
3 medical and rehabilitation information; to immunity for third-party design professionals from
4 civil actions by recipients of workers' compensation benefits; to workers' compensation death
5 benefits; to computation of workers' compensation benefits; to penalties for fraudulent acts
6 related to workers' compensation; to immunity for employer workplace safety inspections
7 related to workers' compensation insurance.

8

9 * Section 1. FINDINGS AND PURPOSE AS TO SECTION 9. (a) The legislature finds
10 that

11 (1) efficiency in calculating workers' compensation benefits does not require
12 unfairness;

1 (2) a quick, efficient, and predictable scheme for determining a worker's gross
2 weekly earnings can be formulated without denying employees their workers' compensation
3 benefits commensurate with their actual losses;

4 (3) many workers in this state are only seasonally employed in the construction,
5 tourism, fishing, and education industries;

6 (4) many workers in the state choose a subsistence lifestyle and are only
7 occasionally, sporadically, or on a part-time basis members of the labor force;

8 (5) many other states avoid the need for an alternative open-ended
9 determination of an employee's future earning capacity by focusing on the employee's wages
10 at the time of injury and converting, by formula, the employee's rate of pay into a weekly
11 wage;

12 (b) benefits for permanent total disability can last for a substantial period into
13 the future and serve a different purpose than benefits for temporary partial or temporary total
14 disability.

15 (b) It is the purpose of sec. 9 of this Act to

16 (1) redefine the calculation of an employee's spendable weekly wage used to
17 determine workers' compensation benefits in a manner that complies with the decision of the
18 Alaska Supreme Court in Gilmore v. Alaska Workers' Compensation Board, 882 P.2d 922
19 (Alaska 1994);

20 (2) fix a fair approximation of an employee's probable future earning capacity
21 during the period of temporary partial or temporary total disability without resorting to an
22 open-ended determination of actual future earning capacity;

23 (3) avoid uncertainty and litigation for injured workers and their employers;

24 (4) allow an alternative open-ended determination of actual future earnings for
25 those employees who suffer a permanent total disability and whose wages cannot otherwise
26 be fairly calculated.

27 * Sec. 2. AS 21.39 is amended by adding a new section to read:

28 Sec. 21.39.045. WORKERS' COMPENSATION RATE FILINGS. (a)
29 Notwithstanding any other provision of this chapter, a rate filing for workers'
30 compensation insurance that classifies a risk in the construction industry may not
31 contain or impose a higher premium rate if the risk upon which the higher rate filing

1 is based consists only of a higher wage rate paid by the employer.

2 (b) The director shall accept a rate filing for workers' compensation insurance
3 if the filing includes a reasonable method of recognizing differences in rates of pay
4 for the construction and the method uses a credit scale that begins at an amount equal to the average
5 for the construction industry weekly wage in this state as determined by the Department of Labor.

6 * Sec. 3. AS 23.30 is amended by adding a new section to read:

7 Sec. 23.30.017. IMMUNITY FOR THIRD-PARTY DESIGN
8 PROFESSIONAL. (a) A person entitled to compensation under this chapter as a
9 result of injury occurring at the job site of a construction project may not bring a civil
10 action to recover damages for that injury against a design professional or an employee
11 of a design professional who provides professional services for the construction
12 project.

13 (b) This section does not apply to a person receiving compensation under this
14 chapter who is injured at a job site at which the design professional or employee of
15 the design professional

16 (1) specifically assumed responsibility for job site safety practices under
17 a contract;

18 (2) actually exercises control over the premises where the injury
19 occurred; or

20 (3) prepared design plans or specifications, the plans or specifications
21 contributed to the injury, and the plans or specifications were prepared negligently,
22 recklessly, or with intentional misconduct.

23 (c) In this section,

24 (1) "design professional" means a person licensed under AS 08.48 as
25 an architect, engineer, or land surveyor;

26 (2) "professional services" means services provided by a design
27 professional that are within the scope of services for which the design professional is
28 licensed.

29 * Sec. 4. AS 23.30.095(k) is amended to read:

30 (k) In the event of a medical dispute regarding determinations of causation,
31 medical stability, ability to enter a reemployment plan, degree of impairment,

1 functional capacity, the amount and efficacy of the continuance of or necessity of
 2 treatment, or compensability between the employee's attending physician and the
 3 employer's independent medical evaluation, the board may require that a second
 4 independent medical evaluation [SHALL] be conducted by a physician or physicians
 5 selected by the board from a list established and maintained by the board. The cost
 6 of an [THE] examination and medical report shall be paid by the employer. The report
 7 of an [THE] independent medical examiner shall be furnished to the board and to the
 8 parties within 14 days after the examination is concluded. A person may not seek
 9 damages from an independent medical examiner caused by the rendering of an opinion
 10 or providing testimony under this subsection, except in the event of fraud or gross
 11 incompetence.

12 * Sec. 5. AS 23.30.107 is amended to read:

13 Sec. 23.30.107. RELEASE OF INFORMATION Upon request, an employee
 14 shall provide written authority to the employer, carrier, rehabilitation specialist
 15 [PROVIDER], or reemployment benefits [REHABILITATION] administrator to
 16 obtain medical and rehabilitation information relative to the employee's injury.

17 * Sec. 6. AS 23.30.107 is amended by adding a new subsection to read:

18 (b) Medical or rehabilitation records in an employee's file maintained by the
 19 board are not public records subject to public inspection and copying under AS 09.25.
 20 This subsection does not prohibit

21 (1) the reemployment benefits administrator, the board, or the
 22 department from releasing medical or rehabilitation records in an employee's file,
 23 without the employee's consent, to a physician providing medical services under
 24 AS 23.30.095(k) or 23.30.110(g), a party to a claim filed by the employee, or a
 25 governmental agency; or

26 (2) the quoting or discussing of medical or rehabilitation records
 27 contained in an employee's file during a hearing on a claim for compensation, or in a
 28 decision and order of the board.

29 * Sec. 7. AS 23.30.175(b) is amended to read:

30 (b) The following rules apply to benefits payable to recipients not residing in
 31 the state at the time compensation benefits are payable:

1 (1) the weekly rate of compensation shall be calculated by multiplying
 2 the recipient's weekly compensation rate calculated under AS 23.30.180, 23.30.185,
 3 23.30.190, 23.30.200, or 23.30.215, by the ratio of the cost of living of the area in
 4 which the recipient resides to the cost of living in this state;

5 (2) the calculation required by (1) of this subsection does not apply if
 6 the recipient is absent from the state for medical or rehabilitation services not
 7 reasonably available in the state;

8 (3) if the gross weekly earnings of the recipient and the resulting
 9 compensation rate are determined under AS 23.30.220(n)(6), (7), or (10)
 10 [AS 23.30.220(a)(2)], the calculation required by this subsection applies only to the
 11 portion of the recipient's weekly compensation rate attributable to wages earned in the
 12 state;

13 (4) application of this subsection may not reduce the weekly
 14 compensation rate to less than \$154 a week, except as provided in (a) of this section.

15 * Sec. 8. AS 23.30.215(f) is amended to read:

16 (f) Except as provided in (g) of this section, the death benefit payable to a
 17 widow or widower shall

18 [(1) FIVE YEARS FOLLOWING DATE OF DEATH OF THE
 19 DECEASED EMPLOYEE BE REDUCED TO 66 2/3 PERCENT OF THE BENEFIT
 20 BEING THEN PAID;

21 (2) EIGHT YEARS FOLLOWING DATE OF DEATH OF THE
 22 DECEASED EMPLOYEE BE REDUCED TO 50 PERCENT OF THE BENEFIT
 23 BEING THEN PAID;

24 (3)] terminate 10 years following death of the deceased employee.

25 * Sec. 9. AS 23.30.220(a) is repealed and reenacted to read:

26 (a) Computation of compensation under this chapter shall be on the basis of
 27 an employee's spendable weekly wage at the time of injury. An employee's spendable
 28 weekly wage is the employee's gross weekly earnings minus payroll tax deductions.
 29 An employee's gross weekly earnings shall be calculated as follows:

30 (1) if at the time of injury the employee's earnings are calculated by
 31 the week, the weekly amount is the employee's gross weekly earnings;

1 (2) if at the time of injury the employee's earnings are calculated by
2 the month, the employee's gross weekly earnings are the monthly earnings multiplied
3 by 12 and divided by 52;

4 (3) if at the time of injury the employee's earnings are calculated by
5 the year, the employee's gross weekly earnings are the yearly earnings divided by 52;

6 (4) if at the time of injury the
7 (A) employee's earnings are calculated by the day, hour, or by
8 the output of the employee, the employee's gross weekly earnings are the
9 employee's earnings most favorable to the employee computed by dividing by
10 13 the employee's earnings, not including overtime or premium pay, earned
11 during any period of 13 consecutive calendar weeks within the 52 weeks
12 immediately preceding the injury;

13 (B) employee has been employed for less than 13 calendar
14 weeks immediately preceding the injury, then, notwithstanding (1) - (3) of this
15 subsection and (A) of this paragraph, the employee's gross weekly earnings are
16 computed by determining the amount that the employee would have earned, not
17 including overtime or premium pay, had the employee been employed by the
18 employer for 13 calendar weeks immediately preceding the injury and dividing
19 this sum by 13;

20 (5) if at the time of injury the employee's earnings have not been fixed
21 or cannot be ascertained, the employee's earnings for the purpose of calculating
22 compensation are the usual wage for similar services when the services are rendered
23 by paid employees;

24 (6) if at the time of injury the employment is exclusively seasonal or
25 temporary, then, notwithstanding (1) - (5) of this subsection, the gross weekly earnings
26 are 1/50th of the total wages that the employee has earned from all occupations during
27 the calendar year immediately preceding the injury;

28 (7) when the employee is working under concurrent contracts with two
29 or more employers, the employee's earnings from all employers are considered as if
30 earned from the employer liable for compensation;

31 (8) if an employee when injured is a minor, an apprentice, or a trainee

1 in a formal training program, as determined by the board, whose wages under normal
2 conditions would increase during the period of disability, the projected increase may
3 be considered by the board in computing the gross weekly earnings of the employee;

4 (9) if the employee is injured while performing duties as a volunteer
5 ambulance attendant, volunteer police officer, or volunteer fire fighter, then,
6 notwithstanding (1) - (6) of this subsection, the gross weekly earnings for calculating
7 compensation shall be the minimum gross weekly earnings paid a full-time ambulance
8 attendant, police officer, or fire fighter employed in the political subdivision where the
9 injury occurred, or, if the political subdivision has no full-time ambulance attendants,
10 police officers, or fire fighters, at a reasonable figure previously set by the political
11 subdivision to make this determination, but in no case may the gross weekly earnings
12 for calculating compensation be less than the minimum wage computed on the basis
13 of 40 hours work per week;

14 (10) if an employee is entitled to compensation under AS 23.30.180
15 and the board determines that calculation of the employee's gross weekly earnings
16 under (1) - (7) of this subsection does not fairly reflect the employee's earnings during
17 the period of disability, the board shall determine gross weekly earnings by considering
18 the nature of the employee's work, work history, and resulting disability, but
19 compensation calculated under this paragraph may not exceed the employee's gross
20 weekly earnings at the time of injury.

21 * Sec. 10. AS 23.30.220 is amended by adding a new subsection to read:

- 22 (c) In this section,
23 (1) "seasonal work" means employment that is not intended to continue
24 through an entire calendar year, but recurs on an annual basis;
25 (2) "temporary work" means employment that is not permanent, ends
26 upon completion of the task, job, or contract, and ends within six months from the date
27 of injury.

28 * Sec. 11. AS 23.30.250 is repealed and reenacted to read:

29 Sec. 23.30.250. PENALTIES FOR FRAUDULENT OR MISLEADING ACTS.
30 (a) A person who (1) knowingly makes a false or misleading statement,
31 representation, or submission related to a benefit under this chapter; (2) knowingly

1 assists, abets, solicits, or conspires in making a false or misleading submission
 2 affecting the payment, coverage, or other benefit under this chapter; (3) knowingly
 3 misclassifies employees or engages in deceptive leasing practices for the purpose of
 4 evading full payment of workers' compensation insurance premiums; or (4) employs
 5 or contracts with a person or firm to coerce or encourage an individual to file a
 6 fraudulent compensation claim is civilly liable to a person adversely affected by the
 7 conduct, is guilty of theft by deception as defined in AS 11.46.180, and may be
 8 punished as provided by AS 11.46.120 - 11.46.150.

9 (b) If the board, after a hearing, finds that a person has obtained compensation,
 10 medical treatment, or another benefit provided under this chapter by knowingly making
 11 a false or misleading statement or representation for the purpose of obtaining that
 12 benefit, the board shall order that person to make full reimbursement of the cost of all
 13 benefits obtained. Upon entry of an order authorized under this subsection, the board
 14 shall also order that person to pay all reasonable costs and attorney fees incurred by
 15 the employer and the employer's carrier in obtaining an order under this section and
 16 in defending any claim made for benefits under this chapter. If a person fails to
 17 comply with an order of the board requiring reimbursement of compensation and
 18 payment of costs and attorney fees, the employer may declare the person in default and
 19 proceed to collect any sum due as provided under AS 23.30.170(b) and (c).

20 * Sec. 12. AS 23.30 is amended by adding a new section to read:

21 Sec. 23.30.263. IMMUNITY FROM CIVIL LIABILITY FOR WORKPLACE
 22 SAFETY INSPECTIONS. An employer's safety inspector is not liable for civil
 23 damages for an injury to an employee of that employer resulting from an act or
 24 omission in performing or failing to perform a loss control service, a workplace safety
 25 inspection, or a safety advisory service provided in connection with an employer's
 26 workers' compensation insurance coverage, unless the act or failure to act constitutes
 27 intentional misconduct. In this section, "safety inspector" means

- 28 (1) a carrier and an employee or agent of the carrier;
 - 29 (2) a trade association of which the employer is a member; or
 - 30 (3) a person providing adjusting or inspection services to an employer
- 31 who is a member of an association established under AS 21.76.010 or to an employer

1 who is self-insured under AS 23.30.090.

2 * Sec. 13. TRANSITION. By January 1, 1996, a rating organization that files a rate for
 3 workers' compensation insurance shall file a rating that contains a method of computing
 4 workers' compensation insurance rates that is in compliance with AS 21.39.045, added by
 5 sec. 2 of this Act.

6 * Sec. 14. Section 2 of this Act applies to a policy of workers' compensation insurance that
 7 is entered into or renewed on or after the effective date of this Act.



Official Business

COMMITTEE:

SENATE LABOR & COMMERCE

DATE: 3/25/97

Subject of meeting:

SB 104 Omnibus Insurance Reform

SIGN-IN

PLEASE PRINT!

NAME ADDRESS (MAILING) & (ZIP) PHONE REPRESENTING DO YOU WANT TO TESTIFY?

Table with 5 columns: NAME, ADDRESS (MAILING) & (ZIP), PHONE, REPRESENTING, DO YOU WANT TO TESTIFY?. Contains handwritten entries for Marianne Burke and Kevin Smith.



Official Business

Alaska State Legislature

Senate

Rules Committee

State Capitol
Juneau, AK. 99801-1182

SPONSOR SUMMARY

SB 104 - Omnibus Insurance Reform

Senate Bill 104 contains numerous procedural requirements designed to ensure that insurers conducting business in this state are solvent, that records are properly maintained, and that appropriate reports are made to the Division. It also eliminates unintentional barriers to companies seeking to do business in Alaska.

In addition, SB 104 contains requirements for health insurance, producer licensing, collection of premium taxes, and it clarifies licensing statutes which are inconsistent with child support enforcement legislation enacted last session.

This bill requires an insurer or licensee to report any suspected producer defalcation or embezzlement immediately to the Director. Insurers are required to report any pertinent corporate changes. Joint Insurance Arrangements (JIA's) reporting to the Director, and Risk Base Capital filings are clarified. SB 104 also requires that an insurer maintain records at its principal place of business. Those records pertain to assets, transactions, complaints, and other corporate affairs for all lines of business transacted.

Senate Bill 104 allows the Director of the Division of Insurance to determine the method of payments, and to collect premium taxes quarterly.

Current insurance statutes require a minimum level of reserves and premium rates that are not excessive, inadequate, or unfairly discriminatory, but only for hospital and medical service corporations. SB 104 will establish such minimum reserve and premium rate standards for all health insurers, thereby providing for a more level playing field, and at the same time, eliminating

archaic hospital and medical service corporation health reserve standards.

Under current law, life and health insurers are not allowed to write stop-loss insurance. This bill adds stop-loss insurance to the definition of health insurance which allows life and health insurers to write this coverage, and gives employers the value of lower risk assessments and lower premiums.

In order to reduce litigation over claims and thereby expedite the closure of a receivership estate, to the benefit of Alaska policy holders and other claimants, SB 104 provides that the superior court shall review and adopt the receiver's report on claims by using the substantial evidence standard. The period for disapproving claims is extended to 120 days.

Other changes are included in this bill to enhance the efficiency of the Division of Insurance and the quality of regulation for the Alaskan consumer. The bill carries a zero fiscal note.

If there are questions, please contact Marianne Burke at 465-2515, or Tim Benintendi at 465-3770.

CITATIONS LIST
Database: AK-ST

Search Result Documents: 5

1. AS 21.06.180 ALASKA STATUTES Title 21. Insurance. Chapter 06. The Director of Insurance. Sec. 21.06.180 Hearings.
2. AS 21.09.100 ALASKA STATUTES Title 21. Insurance. Chapter 09. Authorization of Insurers and General Requirements. Sec. 21.09.100 Management and affiliations.
3. AS 21.22.060 ALASKA STATUTES Title 21. Insurance. Chapter 22. Insurance Holding Companies. Sec. 21.22.060 Registration required.
4. AS 21.69.100 ALASKA STATUTES Title 21. Insurance. Chapter 69. Organization and Corporate Procedures. Sec. 21.69.100 Duration of permit.
5. AS 21.78.297 ALASKA STATUTES Title 21. Insurance. Chapter 78. Rehabilitation and Liquidation. Sec. 21.78.297 Reopening liquidation.

END OF CITATIONS LIST

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"For Good Cause" citations

SB

110

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 110(L&C)

Revision Date: _____ Department: Commerce and Economic Development
 Title: An Act relating to licensure of landscape architects. BRU: Occupational Licensing
 Component: Operations
 Sponsor: Senator Mackie
 Requestor: Senate Labor & Commerce COMPONENT SERIAL NO. 1844

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	5.8	5.8	5.8	5.8	5.8	5.8
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	5.4	5.4	4.6	4.6	4.6	4.6
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	12.2	12.2	11.4	11.4	11.4	11.4

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES	24.4	0.0	22.8	0.0	22.8	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR	12.2	12.2	11.4	11.4	11.4	11.4
TOTAL	12.2	12.2	11.4	11.4	11.4	11.4

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note assumes that registration of landscape architects will be accomplished by adding one non-voting member to the Board of Registration for Architects, Engineers and Land Surveyors (AELS); and that examination for landscape architects will be administered once annually by a testing agency. Additionally, no out-of-state travel is included in this fiscal note, and no funding for investigative services. However, if numerous complaints are received and investigative services become necessary, additional funding will be required at such time. An explanation of the costs identified above are attached.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: 4/15/97
 Date: 4-16-97

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB 110(L&C)

ANALYSIS: (Continued)

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS

PERSONAL SERVICES

\$ 5.8

The Board of Registration for Architects, Engineers and Land Surveyors is presently understaffed for the amount of activity required to support the program. This fiscal note assumes that the duties for examination and registration of landscape architects will require at least one-fourth of a Licensing Examiner's position, Range 12. This funding assumes reclassifying a present Administrative Clerk position which currently provides support to the program, to a Licensing Examiner position. This position will then support the new landscape architect registration requirements and be able to provide additional necessary support to the Board.

TRAVEL

\$ 0.0

No travel is anticipated.

CONTRACTUAL SERVICES

\$ 5.4

Contractual Services are based on the following (underlined) costs-

Proctor Fees:

One three-day exam, 8 hours per day. The proctor fee is \$10 per hour x 8 hours = \$80 x 3 days = \$240;

Regulations:

- One public notice printed in three newspapers, estimated at \$200 per paper x 3 = \$600;
- Printing of regulations consisting of 6 pages, back-to-back, at \$12 per 100 x 6 pages = \$72 x 3.5 (to produce 350 copies) = \$252;
- Postage for 350 pieces x .32 = \$112;

Daily communication costs = \$1,000;

Room rental for three days of examinations at \$600 per day x 3 days = \$1,800;

Membership fees = \$1,400.

After the first two years, it is anticipated that costs associated with public noticing and printing of regulations will cease.

CSSB 110(L&C), continued

SUPPLIES

\$ 1.0

TOTAL:

\$ 12.2

REVENUE: In accordance with AS 08.01.065, all licensees are required to pay the costs of regulating their profession. In accordance with Section 3 of the bill, licensees under the Board of Architects, Engineers, Land Surveyors, and Landscape Architects will pay fees to cover the costs identified in this fiscal note.

This program is intended to be funded entirely by *Designated Program Receipts* from licensing fees.

SPONSOR STATEMENT- SENATOR MACKIE
SB 110 - "AN ACT RELATING TO LICENSURE OF LANDSCAPE ARCHITECTS."

SB 110 proposes to amend AS 08.48.011(a) by adding landscape architects to the current State Board of Registration for Architects, Engineers, and Land Surveyors; landscape architects work professionally side by side with these other state registered design disciplines on a daily basis.

Although 45 states currently require such licensing, there are no licensure requirements in the State of Alaska. Similar to architects and engineers, landscape architects must attend accredited universities which are accredited by their national organization (American Society of Landscape Architects) which has rigid accreditation criteria.

Landscape architects provide for the design for improvements of major public facilities, in all types of site development, commercial development and housing. Licensed landscape architects require minimum standards for the protection of public health and safety in the design of playgrounds where safety of children must be guaranteed, the design of bike trails that recognize frozen soil considerations that meet codes for accessibility and safety, the design of landscapes along roadways where roadside safety of motorists must be assured in the advent of an accident and also the design of wetland treatments of storm water runoff.

In order for Alaskan landscape architects to secure federal projects, the state must provide landscape architect licensing capabilities. Alaskan landscape architects are currently excluded from participating in securing these federal jobs and these moneys are going to companies located outside of the state. SB 110 would level the playing field for Alaskans competing for federal work performed in this state, thus helping to ensure that moneys spent for design of Alaskan facilities will be utilized by businesses and professionals who reside in our state.

Licensing requirements would ensure that individuals providing these professional services are licensed by the State of Alaska and would give landscape architects their due recognition as qualified professionals for the design and development of the outdoor environment. By combining development projects with health, safety, and environmental design, landscape architecture is instrumental in eliminating the negative aspects of potential development projects.

The new 1998 fiscal note reflects that all licensees are required to pay the costs of regulating their profession; Section 3 provides that the Board of Registration for Architects, Engineers and Land Surveyors will pay fees to cover costs in this fiscal note. This legislation does not add a permanent, voting landscape architect to the board and will meet our intent to have a landscape architect as a resource person during the initial regulations process, but not on a permanent basis.

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/27/97

FURTHER: Finance

Date of 5-Day Notice: 4-10-97
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4-17-97

Labor and Commerce Committee considered SENATE BILL NO. 110

"An Act relating to licensure of landscape architects."

and recommends:

- be replaced with CS SP 110 (etc)
- adopt previous CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title.
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DQ PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Tim Kelly</i> <i>[Signature]</i>	✓				
CHAIR:		<i>Loren J. Roman</i> CHAIR:	✓		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
C+ED	4/4/97	✓	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

to b:11
+CS

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

Alaska State Legislature

Senate



Official Business

State Capitol
Juneau, AK. 99801-1182

TO: Legal Services
via fax: 2029 this page only

FROM: Annette Kreitzer, Aide to
Senate Labor & Commerce Committee
X 3844

DATE: April 16, 1997

RE: FINAL CS SB 110:Licensing Landscape Architects

Using Work Draft LS0634L, please incorporate the following amendments and prepare a FINAL CS for Senate Bill 110 for delivery to Senator Leman's office, Capitol Room 115:

1) Delete everywhere it appears [Landscape Architects] from the name of the board.
Board of Registration for Architects, Engineers and Land Surveyors [AND
LANDSCAPE ARCHITECTS]

2) Amend Section 23 (page 9, lines 16-24) by lettering it (a) and adding a new paragraph:

(b) Notwithstanding (a) of this section, this chapter does not prohibit the practice of landscape architecture by a person who is not registered to practice landscape architecture if the services being performed by the person are within the scope of practice authorized by another license that is held by the person.

3) Amendment #3 was withdrawn.

4) Amendment #4: Due to the language in SB 87: Architects, Engineers and Land Surveyors, a conforming amendment was adopted for SB 110:

Page 12, Line 2: DELETE [LAND SURVEYING,] and
Page 12, Line 26: DELETE [RELATING] and replace with related

There were no other changes to the bill.

committed misconduct or malpractice, the board shall suspend or revoke the certificate of authorization. The board shall also suspend or revoke the certificate of registration of any registered individual architect, engineer, ~~and~~ land surveyor, or landscape architect who, after a proper hearing, is found by the board to have participated in committing the misconduct or malpractice.

* Sec. 24. AS08.48.251 is amended to read:

Sec. 08.48.251. PARTNERSHIPS. This chapter does not prevent the practice of architecture, engineering, ~~and~~ land surveying, or landscape architecture by partnership if all of the members of the partnership are architects, engineers, ~~and~~ land surveyors, or landscape architects legally registered under this chapter.

* Sec. 25. AS08.48.281 is amended to read:

Sec. 08.48.281. PROHIBITED PRACTICE. A person may not practice or offer to practice the profession of architecture, engineering, ~~and~~ land surveying, or landscape architecture in the state, or use in connection with the person's name or otherwise assume or advertise a title or description tending to convey the impression that the person is a registered architect, engineer, ~~and~~ land surveyor, or landscape architect unless the person has been registered under the provisions of this chapter or is a person to whom these provisions do not apply, or, in the case of a corporation, unless it has been authorized under this chapter.

* Sec. 26. AS08.48.281 is amended by adding new subsections to read:

SB 320

(b) Notwithstanding (a) of this section, this chapter does not prohibit the practice of landscape architecture by a person who is not registered to practice landscape architecture if the services being performed by the person are within the scope of practice authorized by another license that is held by the person.

(c) Notwithstanding the definition of the "practice of landscape architecture" in AS08.48.341, a registered landscape architect may not perform or offer to perform a service described in AS08.48.341(17) if that service also requires registration as an architect or engineer unless the landscape architect is also registered as an architect or engineer, as applicable.

A11-2
conceptual
Am # 3

* Sec. 27. AS08.48.291 is amended to read:

Sec. 08.48.291. VIOLATIONS AND PENALTIES.

SB110:

CS change:

sect. 34

pg 14, line 5-6

Improving monitoring board member
Kelly (I support temp.)

Kelly mv C.S SB110.

Am #1 by Lerner

Delete "Landscape Mileposts" from Board Name

no objection

Am #2 by Kelly Mielke

Section 23 (b) notwithstanding (a) of this section ...

no objection

Am #3 moved by Kelly

(c) notwithstanding the defn. [unclear]

~~the [unclear] [unclear] [unclear] [unclear]~~

2 Am [unclear]
Adopted

Am #4
Pg 12, Line 2
[Land Summary]
Line 24
clear relating to related

Adopted 4-15-97

WORK DRAFT

WORK DRAFT

WORK DRAFT

0-LS0634/L
Lauterbach
4/3/97

CS FOR SENATE BILL NO. 110()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATOR MACKIE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to licensure of landscape architects; and relating to fees collected
2 by the Board of Registration for Architects, Engineers, Land Surveyors, and
3 Landscape Architects." #1

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

5 * **Section 1.** AS 08.01.010(3) is amended to read:

6 (3) State Board of Registration for Architects, Engineers, [AND] Land
7 Surveyors, and Landscape Architects (AS 08.48.011);

8 * **Sec. 2.** AS 08.01.065(c) is amended to read:

9 (c) Except as provided in (f) of this section, the [THE] department shall
10 establish fee levels under (a) of this section so that the total amount of fees collected
11 for an occupation approximately equals the actual regulatory costs for the occupation.
12 The department shall annually review each fee level to determine whether the
13 regulatory costs of each occupation are approximately equal to fee collections related
14 to that occupation. If the review indicates that an occupation's fee collections and

1 regulatory costs are not approximately equal, the department shall calculate fee
2 adjustments and adopt regulations under (a) of this section to implement the
3 adjustments. In January of each year, the department shall report on all fee levels and
4 revisions for the previous year under this subsection to the office of management and
5 budget. If a board regulates an occupation covered by this chapter, the department
6 shall consider the board's recommendations concerning the occupation's fee levels and
7 regulatory costs before revising fee schedules to comply with this subsection. In this
8 subsection, "regulatory costs" means costs of the department that are attributable to
9 regulation of an occupation plus

10 (1) all expenses of the board that regulates the occupation if the board
11 regulates only one occupation;

12 (2) the expenses of a board that are attributable to the occupation if the
13 board regulates more than one occupation.

14 * Sec. 3. AS 08.01.065 is amended by adding a new subsection to read:

15 (f) Notwithstanding (c) of this section, the department shall establish fee levels
16 under (a) of this section so that the total amount of fees collected by the State Board
17 of Registration for Architects, Engineers, Land Surveyors, and Landscape Architects
18 approximately equals the total regulatory costs of the department and the board for all
19 occupations regulated by the board. The department shall set the fee levels for the
20 issuance and renewal of a certificate of registration issued under AS 08.48.211 so that
21 the fee levels are the same for all occupations regulated by the board.

22 * Sec. 4. AS 08.03.010(c)(3) is amended to read:

23 (3) State Board of Registration for Architects, Engineers, [AND] Land
24 Surveyors, and Landscape Architects (AS 08.48.011) -- June 30, 1997;

25 * Sec. 5. AS 08.48.011(a) is amended to read:

26 (a) There is created the State Board of Registration for Architects, Engineers,
27 [AND] Land Surveyors, and Landscape Architects. The board shall administer the
28 provisions of this chapter and comply with AS 44.62 ([THE] Administrative
29 Procedure Act [(AS 44.62)]).

30 * Sec. 6. AS 08.48.061(c) is amended to read:

31 (c) The board may make expenditures from appropriated funds for any purpose

1 that is reasonably necessary for the proper performance of its duties under this chapter.
2 This may include the expenses of the board delegates to meetings of councils of
3 architect examiners, engineering examiners, [OR] land surveyor examiners, or
4 landscape architect examiners, or any of their subdivisions. The total amount of
5 warrants issued in payment of the expenses incurred under this chapter may not exceed
6 the amount of money appropriated by the legislature.

7 * Sec. 7. AS 08.48.071(f) is amended to read:

8 (f) The Department of Commerce and Economic Development shall assemble
9 statistics relating to the performance of its staff and the performance of the board,
10 including but not limited to,

11 (1) the number of architects, engineers, [AND] land surveyors, and
12 landscape architects registered over a five-year period;

13 (2) the rate of passage of examinations administered by the board;

14 (3) the number of persons making application for registration as a
15 professional architect, engineer, [OR] land surveyor, or landscape architect over a
16 five-year period;

17 (4) an account of registration fees collected under AS 08.01.065;

18 (5) a measure of the correspondence workload of any licensing
19 examiner employed by the department to carry out this chapter.

20 * Sec. 8. AS 08.48.111 is amended to read:

21 **Sec. 08.48.111. Power to revoke, suspend, or reissue certificate.** The board
22 may suspend, refuse to renew, or revoke the certificate of or reprimand a registrant or
23 corporation who is found guilty of (1) fraud or deceit in obtaining a certificate; (2)
24 gross negligence, incompetence, or misconduct in the practice of architecture,
25 engineering, [OR] land surveying, or landscape architecture; or (3) a violation of this
26 chapter, a regulation adopted under this chapter, or the code of ethics or professional
27 conduct as adopted by the board. The code of ethics or professional conduct shall be
28 distributed in writing to every registrant and applicant for registration under this
29 chapter. This publication and distribution of the code of ethics or professional conduct
30 constitutes due notice to all registrants. The board may revise and amend its code and,
31 upon doing so, shall immediately notify each registrant in writing of the revisions or

1 amendments. The board may, upon petition of the registrant or corporation, reissue
2 a certificate if a majority of the members of the board vote in favor of the reissuance.

3 * Sec. 9. AS 08.48.171 is amended to read:

4 **Sec. 08.48.171. General requirements and qualifications for registration.**

5 An applicant for registration as an architect, engineer, [OR] land surveyor, or
6 landscape architect must be of good character and reputation and shall submit
7 evidence satisfactory to the board of the applicant's education, training, and
8 experience. However, an applicant for registration as a land surveyor may not be
9 required to submit evidence of more than eight years of any combination of education,
10 experience, or training.

11 * Sec. 10. AS 08.48.181 is amended to read:

12 **Sec. 08.48.181. Registration upon examination.** Except as provided in
13 AS 08.48.191, for registration as a professional architect, professional engineer, [OR]
14 professional land surveyor, or professional landscape architect, a person shall be
15 examined in this state in accordance with the regulations of procedure and standards
16 adopted by the board under AS 44.62 ([THE] Administrative Procedure Act
17 [(AS 44.62)]). The procedure and standards shall at least meet the requirements
18 adopted by recognized national examining councils for these professions.

19 * Sec. 11. AS 08.48.191 is amended by adding a new subsection to read:

20 (d) A person holding a certificate of registration authorizing the person to
21 practice landscape architecture in a state, territory, or possession of the United States,
22 the District of Columbia, or a foreign country, that in the opinion of the board meets
23 the requirements of this chapter, based on verified evidence, may upon application, be
24 registered under the regulations of the board. A person holding a certificate of
25 qualification issued by the Council of Landscape Architectural Registration Boards
26 may upon application be registered under regulations of the board.

27 * Sec. 12. AS 08.48.201(a) is amended to read:

28 (a) Application for registration as a professional architect, a professional
29 engineer, [OR] a professional land surveyor, or a professional landscape architect
30 shall

31 (1) be on a form prescribed and furnished by the board;

1 (2) contain statements made under oath, showing the applicant's
2 education and a detailed summary of the applicant's technical experience; and

3 (3) contain five references, three of whom must be architects for
4 architectural registration, engineers for engineering registration, [AND] land surveyors
5 for land surveying registration, and landscape architects for landscape architectural
6 registration, having personal knowledge of the applicant's architectural, engineering,
7 [OR] land surveying, or landscape architectural education, training, or experience.

8 * Sec. 13. AS 08.48.211 is amended to read:

9 Sec. 08.48.211. Certificate of registration. (a) An applicant who fulfills the
10 requirements set out by the board shall be awarded a certificate of registration as a
11 professional architect, engineer, [OR] land surveyor, or landscape architect,
12 authorizing the holder to offer or perform architectural, engineering, [OR] land
13 surveying, or landscape architectural services or work for the public, or to certify or
14 sign architectural, engineering, [OR] land surveying, or landscape architectural
15 documents. Certificates of registration issued under this section shall be inscribed on
16 their face in a manner determined by the board.

17 (b) The certificate of registration sealed by the board is prima facie evidence
18 that the person named in it is entitled to all rights and privileges of a professional
19 architect, professional engineer, [OR] professional land surveyor, or professional
20 landscape architect while the certificate remains unrevoked or unexpired.

21 * Sec. 14. AS 08.48.215(a) is amended to read:

22 (a) On retiring from practice and payment of an appropriate one-time fee, an
23 individual who is a registrant in good standing with the board may apply for the
24 conversion of a certificate of registration to a retired status registration. An individual
25 holding a retired status registration may not practice architecture, engineering, [OR]
26 land surveying, or landscape architecture in the state. A retired status registration
27 is valid for the life of the registration holder and does not require renewal.

28 * Sec. 15. AS 08.48.221 is amended to read:

29 Sec. 08.48.221. Seals. Each registrant may obtain a seal of the design
30 authorized by the board, bearing the registrant's name, registration number, and the
31 legend, "Registered Professional Architect," "Registered Professional Engineer," [OR]

1 "Registered Professional Land Surveyor," or "Registered Professional Landscape
2 Architect," as appropriate. When a registrant issues final drawings, specifications,
3 surveys, plats, plates, reports, or similar documents, the registrant shall sign the
4 documents and stamp the documents with the seal. The board shall adopt regulations
5 governing the use of seals by the registrant. An architect, engineer, [OR] land
6 surveyor, or landscape architect may not affix or permit a seal and signature to be
7 affixed to an instrument after the expiration of a certificate or for the purpose of aiding
8 or abetting another person to evade or attempt to evade a provision of this chapter.
9 The registrant, by affixing the registrant's seal to final drawings, specifications,
10 surveys, plats, plates, reports, and other similar documents, and signing them, certifies
11 that these documents were prepared by or under the registrant's direct supervision,
12 unless the registrant certifies on the face of the document to the extent of the
13 registrant's responsibility.

14 * Sec. 16. AS 08.48.241(a) is amended to read:

15 (a) This chapter does not prevent a corporation from offering architectural,
16 engineering, [OR] land surveying, or landscape architectural services; however, the
17 corporation shall file with the board

18 (1) an application for a certificate of authorization upon a form to be
19 prescribed by the board and containing information required to enable the board to
20 determine whether the corporation is qualified in accordance with the provisions of this
21 chapter to offer to practice architecture, engineering, [OR] land surveying, or
22 landscape architecture in this state;

23 (2) a certified copy of a resolution of the board of directors of the
24 corporation designating persons holding certificates of registration under this chapter
25 as responsible for the practice of architecture, engineering, [OR] land surveying, or
26 landscape architecture by the corporation in this state and providing that full
27 authority to make all final architectural, engineering, [OR] land surveying, or
28 landscape architectural decisions on behalf of the corporation with respect to work
29 performed by the corporation in this state is granted by the board of directors to the
30 persons designated in the resolution; however, the filing of this resolution does not
31 relieve the corporation of any responsibility or liability imposed upon it by law or by

1 contract;

2 (3) a designation in writing setting out the name of one or more
3 persons holding certificates of registration under this chapter who are in responsible
4 charge of each major branch of the architectural, engineering, [OR] land surveying, or
5 landscape architectural activities in which the corporation specializes in this state;
6 if a change is made in the person in responsible charge of a major branch of the
7 architectural, engineering, [OR] land surveying, or landscape architectural activities,
8 the change shall be designated in writing and filed with the board within 30 days after
9 the effective date of the change.

10 * Sec. 17. AS 08.48.241(b) is amended to read:

11 (b) Upon filing with the board the application for certificate of authorization,
12 certified copy of resolution, affidavit, and designation of persons specified in this
13 section, the board shall, subject to (c) of this section, issue to the corporation a
14 certificate of authorization to practice architecture, engineering, [OR] land surveying,
15 or landscape architecture in this state upon a determination by the board that

16 (1) the bylaws of the corporation contain provisions that all
17 architectural, engineering, [OR] land surveying, or landscape architectural decisions
18 pertaining to architectural, engineering, [OR] land surveying, or landscape
19 architectural activities in this state will be made by the specified architect, engineer,
20 [OR] land surveyor, or landscape architect in responsible charge, or other registered
21 architects, engineers, [OR] land surveyors, or landscape architects under the direction
22 or supervision of the architect, engineer, [OR] land surveyor, or landscape architect
23 in responsible charge;

24 (2) the application for certificate of authorization states the type of
25 architecture, engineering, [OR] land surveying, or landscape architecture practiced
26 or to be practiced by the corporation;

27 (3) the applicant corporation has the ability to provide architectural,
28 engineering, [OR] land surveying, or landscape architectural services;

29 (4) the application for certificate of authorization states the professional
30 records of the designated person who is in responsible charge of each major branch of
31 architectural, engineering, [OR] land surveying, or landscape architectural activities

1 in which the corporation specializes;

2 (5) the application for certificate of authorization states the experience
3 of the corporation, if any, in furnishing architectural, engineering, [OR] land surveying,
4 or landscape architectural services during the preceding five-year period;

5 (6) the applicant corporation meets other requirements related to
6 professional competence in the furnishing of architectural, engineering, [OR] land
7 surveying, or landscape architectural services as may be adopted by the board in
8 furtherance of the objectives and provisions of this chapter.

9 * Sec. 18. AS 08.48.241(d) is amended to read:

10 (d) The certificate of authorization shall specify the major branches of
11 architecture, engineering, [OR] land surveying, or landscape architecture of which
12 the corporation has designated a person in responsible charge as provided in this
13 section. The certificate of authorization shall be conspicuously displayed in the place
14 of business of the corporation, together with the names of persons designated as being
15 in responsible charge of the professional activities.

16 * Sec. 19. AS 08.48.241(e) is amended to read:

17 (e) If a corporation, organized solely by either a group of architects, a group
18 of engineers, [OR] a group of land surveyors, or a group of landscape architects,
19 each holding a certificate of registration under this chapter, applies for a certificate of
20 authorization, the board may, in its discretion, grant a certificate of authorization to the
21 corporation based on a review of the professional records of the incorporators, in place
22 of the required qualifications set out in this section. If the ownership of the
23 corporation is altered, the corporation shall apply for a revised certificate of
24 authorization, based upon the professional records of the owners, if exclusively
25 architects, engineers, [OR] land surveyors, or landscape architects, or otherwise under
26 the qualifications required by (b)(1) - (4) of this section.

27 * Sec. 20. AS 08.48.241(f) is amended to read:

28 (f) A corporation authorized to offer architectural, engineering, [OR] land
29 surveying, or landscape architectural services under this chapter, together with its
30 directors and officers for their own individual acts, is responsible to the same degree
31 as the designated individual registered architect, engineer, [OR] land surveyor, or

1 landscape architect, and shall conduct its business without misconduct or malpractice
2 in the practice of architecture, engineering, [OR] land surveying, or landscape
3 architecture as defined in this chapter.

4 * Sec. 21. AS 08.48.241(g) is amended to read:

5 (g) If the board, after a proper hearing, finds that a corporation holding a
6 certificate of authorization has committed misconduct or malpractice, the board shall
7 suspend or revoke the certificate of authorization. The board shall also suspend or
8 revoke the certificate of registration of any registered individual architect, engineer,
9 [OR] land surveyor, or landscape architect who, after a proper hearing, is found by
10 the board to have participated in committing the misconduct or malpractice.

11 * Sec. 22. AS 08.48.251 is amended to read:

12 Sec. 08.48.251. Partnerships. This chapter does not prevent the practice of
13 architecture, engineering, [OR] land surveying, or landscape architecture by
14 partnership if all of the members of the partnership are architects, engineers, [OR] land
15 surveyors, or landscape architects legally registered under this chapter.

16 * Sec. 23. AS 08.48.281 is amended to read:

17 Sec. 08.48.281. Prohibited practice. A person may not practice or offer to
18 practice the profession of architecture, engineering, [OR] land surveying, or landscape
19 architecture in the state, or use in connection with the person's name or otherwise
20 assume or advertise a title or description tending to convey the impression that the
21 person is an architect, an engineer, [OR] a land surveyor, or a landscape architect,
22 unless the person has been registered under the provisions of this chapter or is a person
23 to whom these provisions do not apply, or, in the case of a corporation, unless it has
24 been authorized under this chapter.

25 * Sec. 24. AS 08.48.291 is amended to read:

26 Sec. 08.48.291. Violations and penalties. A person who practices or offers
27 to practice architecture, engineering, [OR] land surveying, or landscape architecture
28 in the state without being registered or authorized to practice in accordance with the
29 provisions of this chapter, or a person presenting or attempting to use the certificate
30 or the seal of another, or a person who gives false or forged evidence of any kind to
31 the board or to a member of the board in obtaining or attempting to obtain a

1 certificate, or a person who impersonates a registrant, or a person who uses or attempts
2 to use an expired or revoked or nonexistent certificate, knowing of the certificate's
3 status, or a person who falsely claims to be registered and authorized to practice under
4 this chapter, or a person who violates any of the provisions of this chapter, is guilty
5 of a misdemeanor and upon conviction is punishable by a fine of not more than
6 \$10,000, or by imprisonment for not more than one year, or by both.

7 * Sec. 25. AS 08.48.311 is amended to read:

8 Sec. 08.48.311. **Rights not transferable.** The right to engage in the practice
9 of architecture, engineering, [OR] land surveying, or landscape architecture is
10 considered a personal and individual right, based on the qualifications of the individual
11 as evidenced by the individual's certificate of registration, which is not transferable.

12 * Sec. 26. AS 08.48.321 is amended to read:

13 Sec. 08.48.321. **Evidence of practice.** A person practices or offers to practice
14 architecture, engineering, [OR] land surveying, or landscape architecture who

15 (1) practices a branch of the profession of architecture, engineering,
16 [OR] land surveying, or landscape architecture as defined in AS 08.48.341;

17 (2) by verbal claim, sign, advertisement, letterhead, card, or other
18 means represents to be an architect, engineer, [OR] land surveyor, or landscape
19 architect, or through the use of some other title implies that the person is an architect,
20 engineer, [OR] land surveyor, or landscape architect; or

21 (3) holds out as able to perform or who does perform an architectural,
22 engineering, [OR] land surveying, or landscape architectural service recognized by
23 the professions covered by this chapter, and specified in regulations of the board, as
24 an architectural, engineering, [OR] land surveying, or landscape architectural
25 service.

26 * Sec. 27. AS 08.48.331 is amended to read:

27 Sec. 08.48.331. **Exemptions.** This chapter does not apply to

28 (1) a contractor performing work designed by a professional architect,
29 [OR] engineer, or landscape architect or the supervision of the construction of the
30 work as a supervisor or superintendent for a contractor;

31 (2) workers in building trades crafts, superintendents, supervisors, or

1 inspectors in the performance of their customary duties;

2 (3) an officer or employee of the United States government practicing
3 architecture, engineering, [OR] land surveying, or landscape architecture as required
4 by the person's official capacity;

5 (4) an employee or a subordinate of a person registered under this
6 chapter if the work or service is done under the direct supervision of a person
7 registered under this chapter;

8 (5) associates, consultants, or specialists retained by a registered
9 individual, a partnership of registered individuals, or a corporation authorized to
10 practice architecture, engineering, [OR] land surveying, or landscape architecture
11 under this chapter, in the performance of professional services if responsible charge
12 of the work remains with the individual, the partnership, or a designated representative
13 of the corporation;

14 (6) a person preparing drawings or specifications for

15 (A) a building for the person's own use and occupancy as a
16 single family residence and related site work for that building;

17 (B) farm or ranch buildings, unless the public health, safety, or
18 welfare is involved;

19 (C) a building that is intended to be used only as a residence
20 by not more than four families and that is not more than two stories high;

21 (D) a garage, workshop, or similar building that contains less
22 than 2,000 square feet of floor space to be used for a private noncommercial
23 purpose;

24 (7) a specialty contractor licensed under AS 08.18 while engaged in the
25 business of construction contracting or designing systems for work within the specialty
26 to be performed or supervised by the specialty contractor, or a contractor preparing
27 shop or field drawings for work that the specialty contractor has contracted to perform;

28 (8) a person furnishing drawings, specifications, instruments of service,
29 or other data for alterations or repairs to a building that do not change or affect the
30 structural system or the safety of the building, or that do not affect the public health,
31 safety, or welfare;