

AS A RESULT OF THE RECENT, UNUSUAL
155 HOUSE LABOR & COMMERCE

1 insurer's deposit made under AS 21.09.090(e). The deposit assets shall be released, at the
2 discretion of the director, to the Alaska Insurance Guaranty Association (AS 21.80) to
3 reimburse for a valid loss and loss expense claim payment made by the association that is
4 within the purpose of the deposit. The director shall pay the remaining deposit assets to
5 the receiver, conservator, rehabilitator, or liquidator of the insurer, or to any other
6 properly designated official who succeeds to the management and control of the insurer's
7 assets, after the director determines that all loss and loss expense liabilities have been
8 paid that were incurred on the insurer's policies written in this state for which the deposit
9 was required.

10

11 * Sec. 4 AS 21.39.045 is amended by adding a new subsection to read:

12 (c) Notwithstanding any provision of this chapter, the director shall not accept a
13 premium rate filing for workers' compensation insurance that exceeds the premium rate
14 filing approved for the insurer by the director for workers' compensation insurance in
15 2004. If the director did not approve an insurer's premium rate filing for workers
16 compensation insurance in 2004, the director shall not accept a premium rate filing from
17 the insurer that exceeds the highest premium rate filing approved for an insurer by the
18 director for workers' compensation insurance in 2004.

19 (d) Subsection (c) shall remain in force and effect June 30, 2007.

20

21 * Sec. 5 AS 21.39.155(a) is amended to read:

22 (a) The director may require insurers, except a reciprocal insurer formed [BY
23 AND INSURING ONLY A GROUP OF MUNICIPALITIES OR NONPROFIT PUBLIC

1 UTILITIES] under AS 21.75 [OR A RECIPROCAL INSURER FORMED UNDER AS
2 21.75 TO PROVIDE MARINE INSURANCE], as a condition of writing a line of
3 insurance dealing with medical malpractice or workers' compensation, to participate in an
4 assigned risk pool if the director finds that mandatory carrier participation is in the public
5 interest.

6

7 * **Sec. 6 AS 23.30.001. Intent of the legislature and construction of chapter.** It is the
8 intent of the legislature that:

9 (1) this chapter be interpreted so as to ensure the quick, efficient, fair, and
10 predictable delivery of indemnity and medical benefits to injured workers at a reasonable
11 cost to the employers who are subject to the provisions of this chapter;

12 (2) workers' compensation cases shall be decided on their merits except where
13 otherwise provided by statute;

14 (3) this chapter may not be construed by the courts in favor of a party;

15 (4) hearings in workers' compensation cases shall be impartial and fair to all
16 parties and that all parties shall be afforded due process and an opportunity to be heard
17 and for their arguments and evidence to be fairly considered.

18

19 * **Sec. 7 AS 23.30.005(a)** is amended to read:

20 (a) The Alaska Workers' Compensation Board consists of a southern panel of
21 three members sitting for the first judicial district, a northern panel of three members
22 sitting for the second and fourth judicial districts, four southcentral panels of three
23 members each sitting for the third judicial district, and one panel of three members that

1 may sit in any judicial district. Each panel must include the commissioner of labor and
2 workforce development or a hearing officer designated to represent [THE
3 DESIGNATED REPRESENTATIVE OF] the commissioner, a representative of
4 industry, and a representative of labor. The latter two members of each panel shall be
5 appointed by the governor and are subject to confirmation by a majority of the members
6 of the legislature in joint session. The board shall by regulation provide procedures
7 to avoid conflicts and the appearance of impropriety in hearings.

8

9 * Sec. 8 AS 23.30.005(b) is amended to read:

10 (b) The commissioner shall act as chair [CHAIRMAN] and executive officer of
11 the board and chair [CHAIRMAN] of each panel. The commissioner may designate a
12 representative to act for the commissioner as chair and executive officer of the
13 board. The commissioner may designate hearing officers to serve as chairs of panels
14 for hearing claims. [IF THE COMMISSIONER DESIGNATES A
15 REPRESENTATIVE TO ACT FOR THE COMMISSIONER, THE
16 REPRESENTATIVE SHALL SERVE IN THAT CAPACITY ON THE BOARD AND
17 ON EACH PANEL.]

18

19 * Sec. 9 AS 23.30.005 is amended by adding new subsections to read:

20 (m) The department may in its discretion contract with a non-profit organization
21 to provide to employees information services and legal representation in proceedings
22 under this chapter.

1 (n) The board may by regulation delegate authority to the director to assist the
2 board in administering and enforcing this chapter.

3
4 * Sec. 10 AS 23.30.012 is amended to read:

5 **Sec. 23.30.012 Agreements in regard to claims.**

6 **(a) At any time after death, or after 30 days subsequent to the date of the injury,**
7 **the employer and the employee or the beneficiary or beneficiaries, as the case may be,**
8 **have the right to reach an agreement in regard to a claim for injury or death under this**
9 **chapter [INACCORDANCE WITH THE APPLICABLE SCHEDULE IN THIS**
10 **CHAPTER], but a memorandum of the agreement in a form prescribed by the director**
11 **[BOARD] shall be filed with the division [BOARD]. Otherwise, the agreement is void**
12 **for any purpose. Except as provided in (b) of this section, an agreement filed with the**
13 **division discharges the liability of the employer for the compensation,**
14 **notwithstanding the provisions of AS 23.30.130, 23.30.160, and 23.30.245, and is**
15 **enforceable as a compensation order.**

16 **(b) If the claimant or beneficiary is not represented by an attorney licensed**
17 **to practice in this state, or the beneficiary is a minor or incompetent, or the**
18 **agreement contains a waiver of benefits under AS 23.30.095, the agreement shall be**
19 **reviewed by a panel of the board.** If approved by the board, the agreement is
20 enforceable the same as an order or award of the board and discharges the liability of the
21 employer for the compensation notwithstanding the provisions of AS 23.30.130,
22 23.30.160, and 23.30.245. The agreement shall be approved by the board only when the
23 terms conform to the provisions of this chapter and, if it involves or is likely to involve

1 permanent disability, the board may require an impartial medical examination and a
2 hearing in order to determine whether or not to approve the agreement.

3 △ [THE BOARD MAY APPROVE] lump-sum settlement may be
4 approved [SETTLEMENTS] when it appears to be to the best interest of the
5 employee or beneficiary or beneficiaries.

6 **Sec. 13.** AS 23.30.041(b) is amended to read:

7 (b) The administrator shall

8 (1) enforce regulations adopted by the board to implement this
9 section;

10 (2) recommend regulations for adoption by the board that establish
11 performance and reporting criteria for rehabilitation specialists;

12 (3) enforce the quality and effectiveness of reemployment benefits
13 provided for under this section;

14 (4) review on an annual basis the performance of rehabilitation
15 specialists to determine continued eligibility for delivery of
16 rehabilitation services;

17 (5) submit to the department, on or before May 1 of each year, a report
18 of reemployment benefits provided under this section for the
19 previous calendar year; the report must include a general section,
20 sections related to each rehabilitation specialist employed under
21 this section, and a statistical summary of all rehabilitation cases,
22 including

- 1 (A) the estimated and actual cost of each active
- 2 rehabilitation plan;
- 3 (B) the estimated and actual time of each rehabilitation
- 4 plan;
- 5 (C) a status report on all individuals requesting,
- 6 waiving, beginning, completing, or terminating a reemployment
- 7 benefits program including
- 8 (i) reasons for denial, waiver, suspension, or
- 9 termination;
- 10 (ii) dates of completion and [A] return to work;
- 11 and
- 12 (iii) other information required by the director
- 13 [DATE];
- 14 (D) the cost of reemployment benefits;
- 15 (E) status reports of all individuals who
- 16 successfully completed a reemployment plan that includes
- 17 (i) the plan's occupational goal and whether the
- 18 individual obtained work after completion in the
- 19 planned or another occupation; and
- 20 (ii) the individual's employment status six
- 21 months,
- 22 one year, and two years after reemployment plan
- 23 completion;

1 (6) maintain a list of rehabilitation specialists who meet the
2 qualifications established under this section;

3 (7) promote awareness among physicians, adjusters, injured workers,
4 employers, employees, attorneys, training providers, and
5 rehabilitation specialists of the reemployment program established
6 in this subsection.

7

8 * Sec. 11. AS 23.30.041(j) is amended to read:

9 (j) The employee, rehabilitation specialist, and [THE] employer shall sign the
10 reemployment benefits plan. If the employer and employee fail to agree on a
11 reemployment plan, either party may submit a reemployment plan for approval to the
12 administrator. The [; THE] the administrator shall approve or deny a plan within 14 days
13 after the plan is submitted. Within [; WITHIN] 10 days after [OF] the decision, either
14 party may seek review of the decision by requesting a hearing under AS 23.30.110. The
15 [;THE] board shall uphold the decision of the administrator unless evidence is submitted
16 supporting an allegation of abuse of discretion on the part of the administrator. The [;
17 THE] board shall render a decision within 30 days after completion of the hearing.

18

19 * Sec. 12 AS 23.30.041(p) is amended to read:

20 (p) When the United States Department of Labor publishes a new edition,
21 revision, or replacement for the "Selected Characteristics of Occupations Defined in the
22 Revised Dictionary of Occupational Titles" referred to in (e) of this section, the director
23 [BOARD] shall, not later than 90 days after the last day of the month in which the new

1 edition, revision, or replacement standard is published, hold an open meeting under AS
2 44.62.310 to select the proposed date on which the new edition, revision, or
3 replacement standard will be implemented to make all eligibility determinations required
4 under (e) of this section. The date selected by the department [BOARD] for
5 implementing the new edition, revision, or replacement standard may not be later than 90
6 days after the last day of the month in which the new edition, revision, or replacement
7 standard is published. After the meeting, the director [BOARD] shall issue a public
8 notice announcing the date selected by the department. The requirements of AS
9 44.62.010 - 44.62.300 do not apply to the selection or announcement of the date under
10 this subsection.

11

12 * **Sec. 13** AS 23.30.041(q) is amended to read:

13 (q) Notwithstanding AS 23.30.012, after medical stability has been determined
14 and a physician has predicted that the employee may have a permanent impairment that
15 may cause the physical demands of the employee's job at the time of injury, an employee
16 may waive any benefits or rights under this section, including an eligibility evaluation
17 and benefits related to a reemployment plan. To waive any benefits or rights under this
18 section, an employee must file a statement under oath with the division [BOARD] to
19 notify the parties of the waiver and to specify the scope of benefits or rights that the
20 employee seeks to waive. The statement must be on a form prescribed or approved by
21 the board. The division [BOARD] shall serve the notice of waiver on all parties to the
22 claim within 10 days after filing. The waiver is effective upon service to the party. A
23 waiver effective under this subsection discharges the liability of the employer for the

1 benefits or rights contained in this section. The waiver may be modified under AS
2 23.30.130.

3

4 * Sec. 14 AS 23.30.080(d) is amended to read:

5 (d) If an employer fails to insure or provide security as required by AS 23.30.075,
6 the board may issue a stop order at the request of the division prohibiting the use of
7 employee labor by the employer until the employer insures or provides security as
8 required by AS 23.30.075. The failure of an employer to file evidence of compliance as
9 required by AS 23.30.085 creates a rebuttable presumption that the employer has failed to
10 insure or provide security as required by AS 23.30.075. If an employer fails to comply
11 with a stop order issued under this section, the board shall assess a civil penalty of \$1,000
12 a [PER] day. The employer may not obtain a public contract with the state or a political
13 subdivision of the state for three years following the violation of the stop order.

14

15 * Sec. 15. AS 23.30.080 is amended by adding new subsections to read:

16 (e) If a representative of the department investigates an employer's failure to file
17 the evidence of compliance required by AS 23.30.085 and, after investigation, there is
18 substantial evidence that the employer failed to insure or provide security as required by
19 AS 23.30.075, the representative shall inform the employer. The representative may
20 request the director to issue a stop order prohibiting the use of employee labor by the
21 employer until the employer insures or provides security as required by AS 23.30.075.
22 The director may issue a stop order, without a hearing, based on the representative's
23 investigation. The director shall dissolve a stop order issued under this subsection upon

1 receipt of substantial evidence that the employer is insured or has provided security as
2 required by AS 23.30.075(a). If an employer fails to comply with a stop order issued
3 under this subsection, the division may petition the board to assess a civil penalty. The
4 board may assess a civil penalty of \$1,000 per day. An employer who is assessed a
5 penalty under this subsection may not obtain a public contract with the state or a political
6 subdivision of the state for the three years following violation of the stop order.

7 (f) If an employer fails to insure or provide security as required by AS 23.30.075,
8 the division may petition the board to assess a civil penalty of up to \$1,000 for each
9 employee for each day an employee is employed while the employer failed to insure or
10 provide the security required by AS 23.30.075. The failure of an employer to file
11 evidence of compliance as required by AS 23.30.085 creates a rebuttable presumption
12 that the employer failed to insure or provide security as required by AS 23.30.075.

13 (g) If an employer fails to pay a civil penalty order issued under (d), (e), or (f) of
14 this section within seven days after the date of service of the order upon the employer, the
15 director may declare the employer in default. The director shall file a certified copy of
16 the penalty order and declaration of default with the clerk of the superior court. The
17 court shall, upon the filing of the copy of the order and declaration, enter judgment for
18 the amount declared in default if it is in accordance with law. Anytime after a declaration
19 of default, the attorney general, when requested to do so by the director, shall take
20 appropriate action to assure collection of the defaulted payment. Review of the judgment
21 may be had as provided under the Alaska Rules of Civil Procedure. Final proceedings to
22 execute the judgment may be had by writ of execution.

23

1 * Sec. 16 AS 23.30 is amended by adding a new section to read:

2 **Sec. 23.30.082. Workers' compensation benefits guaranty fund.**

3 (a) The workers' compensation benefits guaranty fund is established in the general
4 fund to carry out the purposes of this section. The fund is composed of civil penalty
5 payments made by employers under AS 23.30.080, income earned on investment of the
6 money in the fund, money deposited in the fund by the department, and appropriations to
7 the fund. Money appropriated to the fund does not lapse. Amounts in the fund may be
8 appropriated for claims against the fund, for expenses directly related to fund operations
9 and claims, and for legal expenses.

10 (b) The Department of Revenue shall provide the division every three months
11 with a statement of the activities of, balances in, interest earned on, and interest returned
12 to the fund.

13 (c) Subject to the provisions of this section, an employee employed by an
14 employer who fails to meet the requirements of AS 23.30.075 and who fails to pay
15 compensation and benefits due to the employee under this chapter, may file a claim for
16 payment by the fund. In order to be eligible for payment, the claim form must be filed
17 within the same time, and in the same manner, as a workers' compensation claim. The
18 fund may assert the same defenses as an insured employer under this chapter.

19 (d) If the fund pays benefits to an employee under this section, the fund shall be
20 subrogated to all of the rights of the employee to the amount paid, and the employee shall
21 assign all right, title, and interest in that portion of the employee's workers' compensation
22 claim and any recovery under AS 23.30.015 to the fund. Money collected by the division
23 on the claim or recovery shall be deposited in the fund.

1 (e) If the money deposited in the fund is insufficient at a given time to satisfy a
2 duly authorized claim against the fund, the fund shall, when sufficient money has been
3 deposited in the fund and appropriated, satisfy unpaid claims in the order in which the
4 claims were originally filed, without interest.

5 (f) The division may contract under AS 36.30 (State Procurement Code) with a
6 person for the person to adjust claims against the fund. The contract may cover one or
7 more claims.

8 (g) In this section, "fund" means the workers' compensation benefits guaranty
9 fund.

10

11 * Sec. 17 AS 23.30.095(g) repealed and reenacted to read:

12 (g) Notwithstanding any other provision of this chapter, a fee or other charge for
13 medical treatment or service may not exceed the usual, customary, and reasonable fees
14 for the treatment or service in the community in which it is rendered and may not to
15 exceed the fees in the fee schedule specified by the board in its published bulletin dated
16 June 09, 2003 until Jun 30, 2007

17

18 * Sec. 18 AS 23.30.095(j) is amended to read:

19 (j) The commissioner shall [BOARD MAY] appoint a medical services review
20 committee, or contract with an existing organization in the state or another state, to assist
21 and advise the department and the board in matters involving the appropriateness,
22 necessity, and cost of medical and related services provided under this chapter.

23

1 * Sec. 19 AS 23.30.095 is amended by adding a new subsection to read:

2 (n) A generic drug product shall be used when dispensing a drug product to an
3 employee under this chapter unless the prescribing physician provides justification in
4 writing explaining the medical necessity for the name brand drug product. The board by
5 regulation shall establish a preferred drug list and a procedure for establishing medical
6 necessity to depart from the list and to use a name brand drug product. In this subsection,
7 "generic drug product" has the meaning given the term "equivalent drug product" in AS
8 08.80.480.

9

10 * Sec. 20 AS 23.30.100(b) is amended to read:

11 (b) The notice must be in writing, contain the name and address of the employee,
12 [AND] a statement of the time, place, nature, and cause of the injury or death, authority
13 to release records of medical treatment for the injury or death to the employer, and
14 be signed by the employee or by a person on behalf of the employee, or in case of death,
15 by a person claiming to be entitled to compensation for the death or by a person on behalf
16 of that person.

17

18 * Sec. 21 AS 23.30.107(b) is amended to read:

19 (b) Medical or rehabilitation records in an employee's file maintained by the
20 division or the board are not public records subject to public inspection and copying
21 under AS 40.25. This subsection does not prohibit

22 (1) the reemployment benefits administrator, the division, the board, or
23 the department from releasing medical or rehabilitation records in an employee's file,

1 without the employee's consent, to a physician providing medical services under AS
2 23.30.095(k) or 23.30.110(g), a party to a claim filed by the employee, or a governmental
3 agency; or

4 (2) the quoting or discussing of medical or rehabilitation records contained
5 in an employee's file during a hearing on a claim for compensation [,] or in a decision and
6 order of the board.

7

8 * Sec. 22 AS 23.30.107 is amended by adding a new subsection to read:

9 (c) The division may not assemble, or provide information respecting, individual
10 records for commercial purposes that are outside the scope of this chapter.

11

12 * Sec. 23 AS 23.30.205(e) is amended to read:

13 (e) The second injury fund may not be bound as to any question of law or fact by
14 reason of an award or an adjudication to which it was not a party or in relation to which
15 the director [COMMISSIONER] was not notified at least three weeks before the award
16 or adjudication, that the fund might be subject to liability for the injury or death.

17

18 *Sec. 24 AS 23.30.240 is amended to read:

19 **Sec. 23.30.240.** Officers of corporations, municipal corporations, and nonprofit
20 corporations, and members of limited liability companies, as employees. An executive
21 officer elected or appointed and empowered in accordance with the charter and bylaws of
22 a corporation, other than an official of a municipal corporation or a charitable, religious,
23 educational, or other nonprofit corporation, is an employee of the corporation under this

1 chapter. However, an executive officer of a corporation may waive coverage under this
2 chapter, subject to the approval of the director [COMMISSIONER OF LABOR AND
3 WORKFORCE DEVELOPMENT], notwithstanding AS 23.30.245(b). Notwithstanding
4 any other provision of this chapter, an executive officer of a municipal corporation or of a
5 charitable, religious, educational, or other nonprofit corporation may be brought within
6 the coverage of its insurance contract by the corporation by specifically including the
7 officer in the contract of insurance. The election to bring an executive officer within the
8 coverage continues in force for the period the contract of insurance is in effect. During
9 that period, an executive officer brought within the coverage of the insurance contract is
10 an employee of the corporation under this chapter.

11

12 * Sec. 25 AS 23.30.240 is amended by adding a new subsection to read:

13 (b) Except as provided in this subsection, a member of a limited liability company
14 organized under AS 10.50 is not an employee of the company under this chapter.
15 Notwithstanding any other provision of this chapter, a limited liability company may
16 bring a member of the company within the coverage of the company's insurance contract
17 by specifically including the member in the contract of insurance. The election to bring
18 the member within the company's coverage continues in force for the period the contract
19 of insurance is in effect. During that period, a member brought within the coverage of the
20 insurance contract is an employee of the company under this chapter.

21

22 * Sec. 26 AS 23.30.260 is amended by adding a new subsection to read:

1 (b) Notwithstanding AS 23.30.145 and (a) of this section, approval of a fee is not
2 required if the fee does not exceed \$300 and is a one-time-only charge to an
3 employee by an attorney licensed in this state who performed legal services with
4 respect to the employee's claim but did not enter an appearance.,

5
6 * Sec. 27 AS 23.30.395 is amended by adding new paragraphs to read:

7 (35) "commissioner" means the commissioner of labor and workforce
8 development;

9 (36) "department" means the Department of Labor and Workforce Development;

10 (37) "director" means the director of the division of workers' compensation in the
11 department;

12 (38) "division" means the division of workers' compensation in the department.

13
14 * Sec. 28 AS 37.05.146(c) is amended by adding a new paragraph to read:

15
16 (78) workers' compensation benefits guaranty fund (AS 23.30.082).

17
18 * Sec. 29 The uncodified law of the State of Alaska is amended by adding a new section
19 to read:

20
21 **TRANSITIONAL PROVISIONS.**

22 (a) Litigation, investigations, and other proceedings pending under a law amended
23 or repealed by this Act, or in connection with functions transferred by this Act, continue

1 in effect and may be continued and completed, notwithstanding a transfer or amendment
2 or repeal provided for in this Act.

3 (b) Certificates, decisions, and orders issued under authority of a law amended or
4 repealed by this Act remain in effect for the term issued, or until revoked, vacated, or
5 otherwise modified under the provisions of this Act. Contracts, rights, liabilities, and
6 obligations created by or under a law amended or repealed by this Act, and in effect on
7 the day before the effective date of this section, remain in effect notwithstanding this
8 Act's taking effect.

9

10 * **Sec. 30** The uncodified law of the State of Alaska is amended by adding a new section
11 to read:

12

13 **TRANSITION: REGULATIONS.**

14 (a) The Department of Labor and Workforce Development and the director of
15 insurance in the Department of Commerce, Community, and Economic Development
16 each may proceed to adopt regulations necessary to implement their respective provisions
17 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),
18 but not before the effective date of the statutory changes.

19

20 * **Sec. 31** The uncodified law of the State of Alaska is amended by adding a new section
21 to read:

22

1 **TRANSITION: MEDICAL SERVICES REVIEW COMMITTEE STUDY AND**
2 **REPORT.** The medical services review committee appointed by the commissioner of
3 labor and workforce development under AS 23.30.095(j), as amended by sec. __ of this
4 Act, shall proceed to study medical and related benefits provided under AS 23.30 to
5 determine the appropriateness, necessity, and cost of the benefits, and access to and
6 delivery of the benefits to injured employees and shall provide to the commissioner of
7 labor and workforce development, by March 1, 2007, a report of the results of the study.

8

9 ***Sec 32.** Sections 1-4 of this Act take effect September 1, 2005.

10 *** Sec. 37.** Except as provided in sec. 32 of this Act, this Act takes effect August 1, 2005.

STEVEN CONSTANTINO

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April 8, 2005
VIA EMAIL & Regular Mail

The Honorable Members of the House of Representatives
Labor & Commerce Committee
State Capitol
Juneau Alaska 99801-1182

RE: Workers Compensation Reform

Dear Representatives:

Workers compensation is a complex system that strikes a delicate balance between the scope of benefits reasonably necessary for injured workers to recover from injuries and the resulting costs to employers. The legislation proposed by the administration would make sweeping changes to that delicate balance.

I am very concerned the legislature is being asked to make these changes without sufficient reliable data regarding what is driving premium increases and the effects of the proposed changes on those worker recoveries and employer premiums. Further, except for legislative committee hearings, there has not been an adequate process to secure input from business, labor, the medical profession, and other practitioners serving the system regarding what changes are needed and the consequences of changes that may be made. Indeed, the "Ad Hoc" committee process that served other legislatures in shaping past amendments was summarily discarded.

I wholeheartedly endorse Amendment 1 to CSSB130 forming a legislative task force to provide the information and input necessary for sound reasoned decision-making. However, I do not believe the full work of the task force can be completed in less than nine months.

The attached "Injured Workers' Compromise Bill" incorporates the majority of the changes in administrative structure and streamlining proposals in CSSB130, changing only the provisions in secs. 10, 13. Most importantly, it proposes new sections that would freeze both medical benefits (sec. 17) and insurance premiums (sec. 4) at 2004 levels until the legislative task force can provide the legislature with the information and input I believe is necessary for the formulation of sound public policy.

Also attached are a series proposed amendments. The proposed amendments duplicate the new provisions contained in the "Compromise Bill," the balance of amendments are changes that would clarify the existing law and improve the system without significant costs to employers.

Thank you for considering these proposals.

Respectfully

/S/

Steven Constantino

Letter to AWCB
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April 8, 2005

Enclosures.

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

*** Sec. 1 AS 21.39.045 is amended by adding a new sections to read:**

(c) Notwithstanding any provision of this chapter, the director shall not accept a premium rate filing for workers' compensation insurance that exceeds the premium rate filing approved for the insurer by the director for workers' compensation insurance in 2004. If the director did not approve an insurer's premium rate filing for workers compensation insurance in 2004, the director shall not accept a premium rate filing from the insurer that exceeds the highest premium rate filing approved for an insurer by the director for workers' compensation insurance in 2004.

(d) Subsection (c) shall remain in force and effect June 30, 2007.

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

*** Sec. 1 AS 23.30.041(q) is amended to read:**

(q) Notwithstanding AS 23.30.012, after medical stability has been determined and a physician has predicted that the employee may have a permanent impairment that may cause the physical demands of the employee's job at the time of injury, an employee may waive any benefits or rights under this section, including an eligibility evaluation and benefits related to a reemployment plan. To waive any benefits or rights under this section, an employee must file a statement under oath with the division [BOARD] to notify the parties of the waiver and to specify the scope of benefits or rights that the employee seeks to waive. The statement must be on a form prescribed or approved by the board. The division [BOARD] shall serve the notice of waiver on all parties to the claim within 10 days after filing. The waiver is effective upon service to the party. A waiver effective under this subsection discharges the liability of the employer for the benefits or rights contained in this section. The waiver may [NOT] be modified under AS 23.30.130.

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

* Sec. 1 AS 23.30.055 is amended by adding a new subsection to read:

(b) Notwithstanding AS 23.30.055(a), if a proximate cause of an employee's injury or death under this chapter is the employer's violation of AS 18.50.075, the regulations adopted under AS 18.60.10 - 18.60.105, or the employer's gross negligence, an injured employee, or the employee's legal representative in case death results from the injury, may elect to claim compensation under this chapter, or to maintain an action against the employer at law or in admiralty for damages on account of the injury or death. For the purposes of this section, the State of Alaska is an "employer."

AMENDMENT NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Introduced:

* Sec. 1 AS 23.30.095(e) is amended to read:

(e) The employee shall, after an injury, at reasonable times and at reasonable locations during the continuance of the disability, if requested by the employer or when ordered by the board, submit to an examination by a physician or surgeon of the employer's choice authorized to practice medicine under the laws of the jurisdiction in which the examination occurs, furnished and paid for by the employer. If attendance at employer medical examination reasonably requires that the injured employee be away from his or her home or work for more than 4 hours, in addition to reasonable travel, lodging and subsistence costs, the employer shall pay all reasonable costs to the injured employee of attending the employer's medical examination, including, but not limited to, reasonable childcare expenses and lost wages or, if the injured employee is not employed at the time of the examination, compensation under AS 23.30.185. Nothing in this section shall be construed to prohibit an injured employee from unobtrusively recording of the employer medical examination. The employer may not make more than one change in the employer's choice of a physician or surgeon without the written consent of the employee. Referral to a specialist by the employer's physician is not considered a change in physicians. An examination requested by the employer not less than 14 days after injury, and every 60 days thereafter, shall be presumed to be reasonable, and the employee shall submit to the examination without further request or order by the board. Unless medically appropriate, the physician shall use existing diagnostic data to complete the examination. Facts relative to the injury or claim communicated to or otherwise learned by a physician or surgeon who may have

attended or examined the employee, or who may have been present at an examination are not privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the compensation provisions of this chapter. If an employee refuses to submit to an examination provided for in this section, the employee's rights to compensation shall be suspended until the obstruction or refusal ceases, and the employee's compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter, be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. An autopsy may not be held without notice first being given to the widow or widower or next of kin if they reside in the state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If adequate notice is not given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

*** Sec. 1 AS 23.30.095(f) is amended to read:**

(f) All fees and other charges for medical treatment or service shall be subject to regulation by the board but may not exceed usual, customary, and reasonable fees for the treatment or service in the community in which it is rendered, as determined by the board. An employee may not be required to pay a fee or charge for medical treatment or service. The board shall adopt, publish and make available for public inspection and copying updated usual, customary, and reasonable medical fee schedules at least once each year.

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

*** Sec. 1 AS 23.30. 095(g) repealed and reenacted to read:**

(g) Notwithstanding any other provision of this chapter, a fee or other charge for medical treatment or service may not exceed the usual, customary, and reasonable fees for the treatment or service in the community in which it is rendered, and until Jun 30, 2007 may not to exceed the fees in the fee schedule specified by the board in its published bulletin dated June 9, 2003.

AMENDMENT NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Introduced:

* Sec. 1 AS 23.30.095(i) is amended to read:

(i) Interference by a person with the selection by an injured employee of an authorized physician to treat the employee, or the improper influencing or attempt by a person to influence a medical opinion of a physician who has treated or examined an injured employee is a misdemeanor.

(1) An employer does not violate this section by corresponding with a physician who has treated the injured employee regarding the physician's medical opinions or treatment provided it serves the employee with a contemporaneous copy of its correspondence and any reply it may receive from the physician.

(2) An employer does not violate this section by conferring with a physician who has treated the injured employee regarding the physician's medical opinions, treatment of the injured employee, or the injured employee's medical history, provided it serves the injured employee with 3 days advance written notice of the conference advising the employee of the right to be present during the physician conference.

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

*** Sec. 1 AS 23.30 is amended by adding a new section to read:**

AS 23.30.109

(a) Within 30 days following receipt of notice under AS 23.30.110 (b) that a claim for compensation or benefits under this chapter is filed with the board, the employer shall serve on the employee, or the employee's legal representative, or other person who shall have filed the claim, and all other parties to the proceeding a complete copy of all the following information and documents in the employers possession:

- (1) the employee's personnel file,
- (2) the names and addresses of all physicians the employer has contacted regarding the employee's claim,
- (3) all documents provided to, or received from, a physician relating to the employee's injury or claim,
- (4) the names, addresses and telephone numbers of all witness known or believed by the employer to possess evidence or information relevant to the employee's injury or claim,
- (5) all written, recorded statements, photographs, or other depictions of the employee or any witness with information or evidence relevant to the employee's injury or claim,
- (6) if the employer has paid the employee compensation, all documents or information the employer relied on in determining the employee's compensation rate,

(7) if the employer denies the employee is entitled to a benefit claimed under AS 23.30.110(a), all documents or information the employer relies on to deny the claimed benefit.

(b) If following its initial disclosures under (a) the employer shall come into possession of additional information or documents within the scope of (a) (1) –(7), the employer shall serve the employee or the employee's legal representative, and all other parties to the proceeding with the supplemental information and documents within 30 days following receipt of the information or documents by the employer.

(c) Nothing in this section shall be construed to limit the scope of discovery the employer shall otherwise have a duty under this chapter to provide the employee upon employee's request or board order.

(d) The employee shall have no duty attend an employer deposition or respond to written employer interrogatories under AS 23.30.115 until 15 days following the employee's receipt of the employer's complete initial disclosures under subsection (a).

AMENDMENT NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Introduced:

*** Sec. 1 AS 23.30.110(c) is amended to read:**

(c) Before a hearing is scheduled, the party seeking a hearing shall file a request for a hearing together with an affidavit stating that the party has completed necessary discovery, obtained necessary evidence, and is prepared for the hearing. An opposing party shall have 10 days after the hearing request is filed to file a response. If a party opposes the hearing request, the board or a board designee shall within 30 days of the filing of the opposition conduct a pre-hearing conference and set a hearing date. If opposition is not filed, a hearing shall be scheduled no later than 60 days after the receipt of the hearing request. The board shall give each party at least 10 days' notice of the hearing and the names of the hearing officer designated to represent the commissioner, the representative of industry, and the representative of labor assigned to hear a claim, either personally or by certified mail. After a hearing has been scheduled, the parties may not stipulate to change the hearing date or to cancel, postpone, or continue the hearing, except for good cause as determined by the board. After completion of the hearing the board shall close the hearing record. If a settlement agreement is reached by the parties less than 14 days before the hearing, the parties shall appear at the time of the scheduled hearing to state the terms of the settlement agreement. Within 30 days after the hearing record closes, the board shall file its decision. If the employer controverts a claim on a board-prescribed controversion notice and the employee does not request a hearing within two years following the filing of the controversion notice, excluding periods during which the employer has failed to cooperate with lawful employee discovery requests and periods during which a

Second Independent Medical Examination under AS 23.30.095(k) or AS 23.30.110(g) is pending, the claim is denied.

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

Sec. 1 AS 23.30.125 is amended to adding new subsections to read:

(g) Unless reversed or modified by the Alaska Supreme Court a final decision of the superior court interpreting or construing this chapter shall have the force of legal precedent binding on the board and applied in all future proceedings before the board,

(h) Upon the board's receipt of a final decision of the Alaska courts interpreting or construing this chapter, the Commissioner shall instruct all persons he has designated under AS 23.30.005(b) to serve as chairs of panels for hearing claims to apply the court's interpretation or construction of this chapter in deciding claims under this chapter, and to advise the representative of industry and the representative of labor on the panel regarding the court's interpretation or construction of this chapter.

(i) If the commissioner believes that two or more final decisions of the superior court interpreting or construing this chapter are inconsistent, ambiguous, or erroneous, the commissioner shall advise the board to appeal the superior court's decision in pending case, or institute new proceedings in the courts to settle or declare the correct interpretation or construction of this chapter.

AMENDMENT NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Introduced:

*Sec. 1 AS 23.30.190(d) is amended to read

(c) The impairment rating determined under (a) of this section shall be reduced by a permanent impairment that existed before the compensable injury. The amount of reduction for permanent impairment that existed before the compensable injury shall be determined under (b) of this section. If the permanent impairment that existed before the compensable injury was the result of a work injury compensable under this chapter incurred while working for the same employer and the employee did not receive compensation under (a) of this section for that permanent impairment, the impairment rating determined under (a) of this section shall not be reduced by a permanent impairment that existed before the compensable injury. If the combination of a prior impairment rating and a rating under (a) of this section would result in the employee being considered permanently totally disabled, the prior rating does not negate a finding of permanent total disability.

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

***Sec. 1 AS 23.30.205(d) is amended to read**

(d) In this section, "permanent physical impairment" means any permanent condition, whether congenital or due to injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee should become unemployed. A condition may not be considered a "permanent physical impairment" unless

(1) it is one of the following conditions:

- (A) epilepsy,
- (B) diabetes,
- (C) cardiac disease,
- (D) arthritis,
- (E) amputated foot, leg, arm, or hand,
- (F) loss of sight of one or both eyes or a partial loss of uncorrected vision of more than 75 percent bilaterally,
- (G) residual disability from poliomyelitis,
- (H) cerebral palsy,
- (I) multiple sclerosis,
- (J) Parkinson's disease,
- (K) cerebral vascular accident,
- (L) tuberculosis,
- (M) silicosis,
- (N) hemophilia,
- (O) chronic osteomyelitis,

- (P) osteoporosis,
- (Q) ankylosis of joints,
- (R) hyperinsulinism,
- (S) muscular dystrophies,
- (T) arteriosclerosis,
- (U) thrombophlebitis,
- (V) varicose veins,
- (W) heavy metal poisoning,
- (X) ionizing radiation injury,
- (Y) compressed air sequelae,
- (Z) ruptured intervertebral disk,
- (AA) spondylolisthesis,[; or]
- (BB) torn rotator cuff,**
- (CC) torn meniscus,**
- (DD) torn cruciate ligament,**
- (EE) closed head injury,**
- (FF) chronic obstructive pulmonary disease**

(2) it would support a rating of disability of 200 weeks or more if evaluated according to standards applied in compensation claims.

AMENDMENT NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Introduced:

Sec. 1 AS 23.30.239 is amended by adding a new section to read:

(e) A person who is a sole proprietor, or a member of a partnership may waive coverage under this chapter, subject to the approval of the commissioner notwithstanding AS 23.30.245(b).

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

*** Sec. 1 AS 23.30.247 is amended by adding a new section to read:**

(d) If an employer does not rehire or continue the employment an employee who has in good faith filed a claim for or received benefits under this chapter, it is presumed in the absence of substantial evidence to the contrary that an employer has discriminated against that employee if:

(1) Within 90 days following the date of injury the employee requests reinstatement in writing;

(2) The employee has the physical or mental capacity to meet the documented physical or mental demands of the job the employee was performing at the time of injury;

(3) The employee is not in the reemployment process under AS 23.30.041;
and

(4) The employer continues to employ one or more persons performing the job the employee was performing at the time of injury.

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

*** Sec. 1 AS 23.30.260 is amended by adding a new section to read:**

(b) Notwithstanding AS 23.30.145 and (a) of this section, approval of a fee is not required if,

(1) the fee does not exceed \$300 and is a one-time-only charge to an employee by an attorney licensed in this state who performed legal services with respect to the employee's claim but did not enter an appearance, or

(2) the fee is paid by an insurer or employer under AS 23.30.145(a) to an attorney licensed in this state who has performed legal services with respect to the employee's claim and has entered an appearance.

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

* **Sec. 1 AS 23.30.395** is amended by adding new paragraphs to read:

(35) "commissioner" means the commissioner of labor and workforce development;

(36) "department" means the Department of Labor and Workforce Development;

(37) "director" means the director of the division of workers' compensation in the department;

(38) "division" means the division of workers' compensation in the department.

(39) "furnish" includes preauthorizing payment for a specific medical benefit under this chapter within 30 days following receipt by the employer of a written request from a medical provider to preauthorize a specified medical benefit to be provided to an injured employee under this chapter.

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

*** Sec. 1 AS 23.30.395(19) is amended to read:**

(19) "married" includes a person who is divorced but is required by the decree of divorce to contribute to the support of the former spouse[;], **and includes a person who is dependent upon the deceased employee at the time of death but who is not married to the decedent under Alaska domestic relations law;**

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

* **Sec. 1 AS 23.30.395** is amended by adding a new paragraph to read:

(35) "wife" or "husband" under this chapter means and includes a person who is dependent upon a deceased worker at the time of death but who is not legally married to the decedent under Alaska domestic law.

AMENDMENT NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Introduced:

*Sec. 1 AS 23.30.220(a) is amended to read:

Sec. 23.30.220. Determination of Spendable Weekly Wage. (a) Computation of compensation under this chapter shall be on the basis of an employee's spendable weekly wage at the time of injury. An employee's spendable weekly wage is the employee's gross weekly earning minus payroll tax deductions. An employee's gross weekly earnings shall be calculated as follows:

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

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

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

(4) if at the time of injury the [(A)] employee's earnings are calculated by the day, hour, or by the output of the employee, **then**, [THE EMPLOYEE'S GROSS WEEKLY EARNINGS ARE] the employee's gross weekly earnings are 1/50 of the total wages that the employee earning from all occupations during either of the two calendar years immediately preceding the injury, whichever is [EARNINGS] most favorable to the employee; [COMPUTED BY DIVIDING BY 13 THE EMPLOYEE'S EARNINGS, INCLUDING OVERTIME OR PREMIUM PAY, EARNED DURING ANY PERIODS OF 13 CONSECUTIVE

CALENDAR WEEKS WITHIN THE 52 WEEKS IMMEDIATELY PRECEEDING THE INJURY;]

[(B)] EMPLOYEE HAS BEEN EMPLOYED FOR LESS THAT 13 CALENDAR WEEKS IMMEDIATELY PRECEEDING THE INJURY, THEN, NOTWITHSTANDING (1) - (3) OF THIS SUBSECTION AND (A) OF THIS PARAGRAPH, THE EMPLOYEE'S GROSS WEEKLY EARNINGS ARE COMPUTED BY DETERMINING THE AMOUNT THAT THE EMPLOYEE WOULD HAVE EARNED, INCLUDING OVERTIME OR PREMIUM PAY, HAD THE EMPLOYEE BEEN EMPLOYED BY THE EMPLOYER FOR 13 CALENDAR WEEKS IMMEDIATELY PRECEEDING THE INJURY AND DIVIDING THIS SUM BY 13;]

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

[(6)] IF AT THE TIME OF INJURY THE EMPLOYMENT IS EXCLUSIVELY SEASONAL OR TEMPORARY, THEN, NOTWITHSTANDING (1) - (5) OF THIS SUBSECTION, THE GROSS WEEKLY EARNINGS ARE 1/50 OF THE TOAL WAGES THAT THE EMPLOYEE HAS EARNED FOR ALL OCCUPATIONS DURNING THE 12 CALENDAR MONTHS IMMEDIATELY PRECEDING THE IJURY;]

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

[(8)] (7) if an employee when injured is a minor, an apprentice, or a trainee in a formalized [FORMAL] training program, as determined by the board, whose wages under normal conditions would increase during the period of disability, the projected increase may be considered by the board in computing the gross weekly earnings of the employee [;]. If the minor, apprentice or trainee would have likely continued that training program employment, then their

compensation shall be their average weekly wage at the time of injury rather than a "look back" average wage calculation;

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

[(10)] **(9)** if an employee is entitled to wage compensation under [AS 23.30.180 the Act and the board determines that calculation of the employee's gross weekly earnings under (1) - [(7)] **(6)** of this subsection does not fairly reflect the employee's earnings during the period of disability, the board shall determine gross weekly earnings by considering the nature of the employee's work, work history, and resulting disability, but compensation calculated under this paragraph may not exceed the employee's gross weekly earnings at the time of injury.

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

***Sec. 1 AS 23.30.220 is amended to add new subsection (c) and §220(c) shall be re-numbered §220(d). AS 23.30.220(c) is amended to read:**

(c) It shall be presumed in the absence of substantial evidence to the contrary that an employer has the wage information needed to compute a compensation rate under this section. If the employer or insurer have in their possession, custody, or control wage earning information from the employer at the time of injury, that wage earning information shall be used to compute the compensation rate under this section that is most favorable to the injured worker.

AMENDMENT NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Introduced:

***Sec. 1 AS 23.30.041 is amended to add new subsection (r) and current AS 23.30.041(r) shall be re-numbered AS 23.30.041(s). AS 23.30.041(r) shall read:**

(r) If an injured employee refuses to sign a proposed reemployment plan under 041(j), and that plan is approved by the rehabilitation benefits administrator or the board and the court on appeal reverses the decision approving a disputed reemployment plan, the employee shall be entitled to a new reemployment plan, notwithstanding the employee's participation, if any, in the disputed plan that is the subject of the appeal, and notwithstanding the limitations of AS 23.30.041(k) and (l).

AMENDMENT NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

Introduced:

***Sec. 1 Section 041(r)(7) is amended to read as follows:**

(7) "remunerative employability" means having skills that allow a worker to be compensated with starting wages or other starting earnings equivalent to at least 60 percent of the worker's gross hourly wages at the time of injury; if the employment is outside the state, the stated 60 percent shall be adjusted to account for the deference between the applicable state average weekly wage and the Alaska average weekly wage.

AMENDMENT NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Introduced:

*Sec. 1 Section 041(k) is amended to read:

(k) Benefits related to the reemployment plan may not extend past two years from the date of plan approval or acceptance, whichever date occurs first, at which time the benefits expire. If an employee reaches medical stability before completion of the plan, temporary total disability benefits shall cease and permanent impairment benefits shall then be paid at the employee's temporary total rate. If the employee's permanent impairment benefits are exhausted before the completion or termination of the reemployment plan, the employer shall provide compensation equal to 70 percent of the employee's spendable weekly wages, but not to exceed 105 percent of the average weekly wage, until completion or termination of the plan, except that any compensation paid under this subsection is reduced by wages earned by the employee as part of a reemployment plan developed under this sections part of a reemployment plan developed under this section while the employee is participating in the plan to the extent that the wages earned as a result of the plan, when combined with the compensation paid under this subsection, exceed the employee's temporary total disability rate. If permanent partial disability benefits have been paid in a lump sum before the employee requested or was found eligible for reemployment benefits, payment of benefits under this subsection is suspended until permanent partial disability benefits would have ceased, had those benefits been paid at the employee's temporary total disability rate, notwithstanding the provisions of AS 23.30.155(j). A permanent impairment benefit remaining unpaid upon the completion or termination of the plan shall

be paid to the employee in a single lump sum. An employee may not be considered permanently totally disabled as long as the employee is involved in the rehabilitation process under this chapter. The fees of the rehabilitation specialist or rehabilitation professional shall be paid by the employer and may be included in the determining the cost of the reemployment plan.

AMENDMENT NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Introduced:

***Sec. 1 AS 23.30.041(e) is amended to add a new section to read:**

(3) If the evidence shows the physical demands of an employee's jobs in subsection (1) and (2) are not accurately described in United States Department of Labor's "Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles" the predictions required under this section shall be made using the job description that most accurately reflects physical demands of the employee's job.

CS for Senate Bill 130 (L+C) Workers Compensation

The basic elements of this CS are as follows:

- 1) Set the rate/fee schedule in accordance with 2004 rates (established in December of 2003) to prevail through 2007. This is in Section 25 of the bill page 16, line 15.
The Medical Services Review Committee Study report (page 28, lines 8-13 of the CS) should be completed and useful as hard data upon which to base the rates for the following year.
- 2) Inserted language that provides for better tracking and oversight of the vocational rehab system, now found on page 8 of the CS.
- 3) Removal of the language that establishes a new Appeals Commission and any language that refers to it and revert back to our current hearing process system and use of the Superior Court. (mostly Sections 10 (pages 6-11 of original bill) and Sections 30 and 31 (on pages 22 – 26 of the original bill and any other referenced language) have been removed.
- 4) Provided new language for clarification regarding the use of the ACOEM Guidelines and a “waiver component” option for the doctors to use when the best treatment for a workers comp injury that falls outside the purview of the guidelines. This change removes the original language “*The presumption may be rebutted by a preponderance of scientific evidence...*”
This new language is found on line 18, page 15 and goes to line 7 of page 16.
- 5) Insertion of new language for Section 41 regarding fraud.
This language was suggested by the ad hoc committee. This can be found on page 25-26 of the CS. in Sections 39 and 40.

ALASKA
LABOR-MANAGEMENT
AD HOC COMMITTEE
ON WORKERS' COMPENSATION

February 22, 2005

Via Facsimile
907.465.3532

The Honorable Frank Murkowski
Governor
State of Alaska

RE: Alaska Worker Compensation Ad Hoc Committee Legislation

Dear Governor Murkowski:

The members of the Ad Hoc Committee respectfully request that the Administration reevaluate its intention to propose workers' compensation legislation and honor the commitments made to the Ad Hoc process by submitting the Ad Hoc legislation as drafted. The Ad Hoc process was started almost 25 years ago and has been the process followed on all significant workers' compensation legislation since that time. The current Ad Hoc committee recognized that the major workers compensation cost drivers were not addressed in last year's legislation. Given the complexity of these issues, the Committee determined that additional time was required to recommend the necessary changes.

We would like to thank the Administration for its continued efforts on our behalf. Some of the Administration's commitments made to support the Ad Hoc process display the Administrations partnership with the ad hoc process:

- 1) In August 2004, at the AFL-CIO conference at the Captain Cook Hotel in Anchorage, Commissioner Greg O'Claray stated before the group of more than 200 labor leaders, that he was representing the Governor. He declared that the Governor was not going to introduce a Workers Comp bill in 2005; that he wanted the Ad Hoc Committee to address those issues.
- 2) On September 28, 2004, Commissioner Greg O'Claray affirmed that the Administration wanted the Ad Hoc Committee to reconvene.
- 3) At the annual Workers' Compensation Board meeting on October 7, 2004, Commissioner O'Claray said that he would support a bill negotiated by the Ad

- Hoc Committee, a non-political, non-partisan group composed of members from both labor and management.
- 4) At an ASMA sponsored meeting on October 7, 2004 Commissioner O'Claray told 30 attendees that the Administration would support the Ad Hoc Committee because labor and management are the primary players in the workers' compensation system.
 - 5) At a luncheon sponsored by the Ad Hoc Committee on December 10, 2004, Commissioner O'Claray told 30 plus legislators and their aides that he was fully committed to legislation formed by the Ad Hoc committee.
 - 6) Administration staff has also stated their intention to honor Ad Hoc Committee legislation in several conversations with Alaska business and labor representatives, both privately and publicly.

The current Ad Hoc Committee convened in September, 2005, specifically at the request of the administration. We understood then that any legislation we negotiated would be supported by the Governor's office and the Administration. Representatives of the Administration have been party to, and have participated in, all meetings of the Ad Hoc Committee.

At a meeting of Ad Hoc representatives and the Administration in Juneau on Tuesday, February 15, 2005, it was announced that a bill not negotiated via the Ad Hoc process would be introduced this session. After discussion and consideration, the Committee has determined that it cannot support legislation not agreed to by both labor and management. This is not a matter of being inflexible but a matter of historical consideration. All workers' compensation legislation since the early 1980s has been agreed to by labor and management through the Ad Hoc process. It has proven to be the best way to build consensus and deliver the fairest set of standards for all participants in the system.

The bill proposed this session by the Committee is not meant to be comprehensive. It is intended to address those issues for which we had factual information on which to rely. While the following is not inclusive, all of these issues are addressed in the bill:

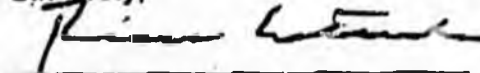
- 1) Adoption of insurance provisions that were included in last session's bill;
- 2) Processes that will streamline and make the Workers' Compensation system more efficient;
- 3) Provisions that allow the division to clearly address uninsured employer issues;
- 4) Modifications to current language that deals with the average weekly wage affecting temporary and seasonal workers;
- 5) Establishment of caps on compensation for out-of-state claimants;
- 6) Creation of a Medical Policy Advisory Committee to establish a prescription drug policy, among other things;
- 7) Enhancement of existing fraud language
- 8) Creation of a Workers' Compensation Board Policy Panel to hear appeals, establish precedent and consistency for the Board statewide;
- 9) Proposes to phase out the second injury fund.

There is additional work to be done, such as vocation rehabilitation, medical cost containment and a return to work program; however, the Committee prefers, as a legislator recently stated on another issue of concern, to "take a reasonable approach, not a Band-Aid approach, not a knee-jerk approach." We intend to continue to research and develop responses to those issues to ensure that we have the best programs available to submit in the next legislative session.

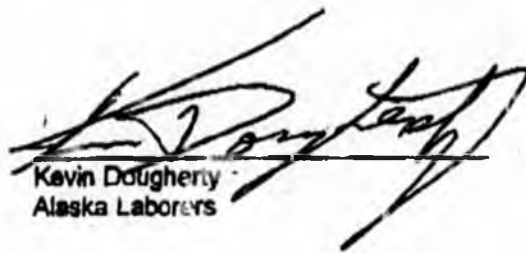
We will be disappointed if legislation is introduced that was not produced by the Ad Hoc process and regret that we cannot support it.

We appreciate your consideration and hope that the Ad Hoc draft legislation is the only legislation introduced this session.

Sincerely,



Richard Cattanach
Associated General Contractors
Of Alaska



Kevin Dougherty
Alaska Laborers

Judy Peterson
President WCCA
Northwest Technical Services

David Ford
Ironworkers Local 751

Laura Jackson
University of Alaska

John Giuchici
IBEW

David Kester
Ribelin Lowell Alaska USA

Barbara Huff-Tuckness
Teamsters

April Reilly
Rain Proof Roofing LLC

Jim Robison
Senior Alaskan

Tim Slabaugh
VECO

Jim Sampson
AFL-CIO

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: CSSB 130 (L&C)
 (S) Publish Date: 4/4/05

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Workers Compensation BRU Alaska Court System
 Component Trial Courts
 Sponsor Senatc Rules
 Requester Governor Component No. 768

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Lard & 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 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 The court system does not anticipate any fiscal impact from the passage of CSSB 130 (L&C).

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 4/1/05 1:11 PM
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 4/1/2005
 Agency: Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 7
 Bill Version: CSSB 130(JUD)
 (S) Publish Date: 4/8/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title: Workers' Compensation RDU: Insurance (116)
 Component: Insurance
 Sponsor: Rules by Request of the Governor
 Requester: Senate Judiciary Component No.: 354

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact on the operations of the Division of Insurance.

Prepared by: Linda S. Hall, Director Phone 907-269-7900
 Division: Insurance Date/Time 4/4/05 5:09 PM
 Approved by: Edgar Blatchford, Commissioner Date 4/4/2005
 Agency: Commerce, Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 8
Bill Version: CSSB 130(FIN)
(S) Publish Date: 4/11/05

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Workers' Compensation RDU: Workers' Compensation
Sponsor: Senate Rules Component: Workers' Compensation
Requester: Senate Finance Component Number: 344

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	71.1	71.1	71.1	71.1	71.1	71.1
Travel	50.0	45.0				
Contractual	292.6	267.6	167.6	167.6	167.6	167.6
Supplies	0.5	0.5	0.5	0.5	0.5	0.5
Equipment	6.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	420.2	384.2	239.2	239.2	239.2	239.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1157)	* 0.0	* 0.0	* 0.0	* 0.0	* 0.0	* 0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1157 Workers' Safety Account	420.2	384.2	239.2	239.2	239.2	239.2
TOTAL	420.2	384.2	239.2	239.2	239.2	239.2

Estimate of any current year (FY2005) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

(See attached.)

Prepared by: Paul F. Lisankie, Director Phone: 465-6059
Division: Workers' Compensation Date/Time: 4/8/05 4:13 PM
Approved by: Greg O'Claray, Commissioner Date: 4/8/2005
Agency: Department of Labor and Workforce Development

FISCAL NOTE # 8

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL VERSION: CS SB 130(FIN)

ANALYSIS: (continued)

Personal Services: A new position (WC Officer II) is requested to allow the reemployment benefits section to increase the amount of outreach and counseling to injured workers potentially eligible for retraining (cost \$71.1). This position would also aid injured workers in assessing options of retraining versus job dislocation benefits.

Travel: Funding of \$45.0 is necessary for travel and per-diem for the staff and members of the medical review committee for FY06 and FY 07. An additional \$5.0 is requested to attend the legislative task force meetings.

Contractual: To implement section 9 (contracting with a non-profit organization to provide legal representation for employees) \$75.0 is requested in FY06 and \$50.0 in FY07 and following years. Funds of \$100.0 for a consultant and other costs associated with the Medical Services Review Committee are included in the first two fiscal years for the committee to study the medical delivery system for workers' compensation (due date 3/1/07). On-going contractual services funding of \$95.0 for fraud detection through an interagency contract with the Employment Security Division (\$60.0) and for rehabilitation program outcome tracking by the Labor Market Information component (\$35.0) is required. Contractual services for the new position include lease costs (\$6.7); mail (\$2.0); and interagency transfers (\$13.9).

Commodities: Funding for supplies for the new position of \$.5.

Equipment: One time funding for office equipment for the new position of \$6.0.

New Fees/Fines:

This bill authorizes the Workers' Compensation Board to impose civil penalties against employers that violate the statutory requirement to insure or properly self-insure their employees for workers' compensation benefits.

* Penalties may be up to \$1,000.00 per employee per day. In FY04 over 150 employers were found without workers' compensation insurance; however, the amount of any penalties cannot be determined. Any penalties assessed will be deposited to the Workers' Compensation Guaranty Fund established by this legislation. The Guaranty Fund will use those funds to pay benefits to workers injured while employed by an uninsured employer. The amount of those benefits is also indeterminate.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 9
 Bill Version: CSSB 130(FIN)
 (S) Publish Date: 4/11/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
 Title: "An Act relating to a special deposit for BRU: Legislative Council
workers' compensation and employers' liability insurers..." Component: Council and Subcommittees
 Sponsor: "Senate Rules Committee by Request..."
 Requestor: Senate Judiciary Component No. 783

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSSB 130 (JUD) creates a Task Force on Workers' Compensation in the Legislative Branch to address the improvement of the Alaska workers' compensation system. The Task Force is composed of one member from the Senate appointed by the Senate President, and one Representative appointed by the Speaker of the House. The Senate President and the House Speaker will jointly appoint one minority member from either house, and eight public members. Judiciary Committee staff advises that all meetings will be by teleconference and no travel costs will be incurred. The Task Force will meet and submit a report of proposed legislation to the Legislature before December 1, 2005. Teleconference costs and costs for printing the report will be absorbed within existing budgets. The Task Force will terminate on February 1, 2006.

Prepared by: Karla Schofield, Deputy Director Phone: 465-6626
 Division: Administrative Services Date/Time: 4/11/05 8:05 AM
 Approved by: Pamela Varni, Executive Director Date: 4/11/2005
 Agency: Legislative Affairs Agency

SB

137

ALASKA STATE SENATE

Session:
State Capitol
Juneau, Alaska 99801-1102
(907) 465-2327
(907) 465-5241 Fax



Interim:
119 N. Cushman, Suite 201
Fairbanks, Alaska 99701
(907) 456-8161
Senator_Ralph_Seekins@legis.state.ak.us

Senator Ralph Seekins
District D

Senate Bill 137 Sponsor Statement

“An Act providing that the University of Alaska may evict a tenant from student housing that is exempt from the provisions of the Uniform Residential Landlord and Tenant Act may evict tenants without resorting to court proceedings under AS 09.45.060-09.45.160”

Currently the University of Alaska has ability to evict problem students out of University residences. This is cited under *Alaska Statute 14.40.240 “Power of president to suspend and expel students”*. This ability is also acknowledged in *Alaska Statute 34.05.330(b)* which is part of the Alaska Uniform Residential Land Lord and Tenant Act (URLTA). This section was adopted in to URLTA in 1974.

A recent lower court decision has contradicted these statutes. This reinterpretation of the law forces the University to obtain a court order to remove a student from University student housing. Thousands of dollars of public funds and numerous hours have been spent litigating with students who have succeeded in convincing the court that they cannot be removed from student housing without a court order.

The eviction process of the University of Alaska is detailed and extensive. A review and appeal process is in place to insure a student’s rights with regards to evictions from student housing. Yet even a student expelled from school, can insist on remaining in student housing until a court order is obtained removing this former student.

Alaska Statute 34.03.330(b)(1) exempts certain types of institutions from the Uniform Residential Landlord and Tenant Act. Public service institutional entities such as hospitals, schools, nursing homes, educational establishments, church housing, and counseling centers are not compatible with the heightened protections designed for residential renters under ULTA.

Senate Bill 137 adds a new section under, *Alaska Statute 09.45.070 “Actions relating to real property”*. It clarifies that the University of Alaska is an institution listed under, *AS 34.03.330* and is not required to obtain a court action to recover possession of a residence that is used for student housing.

24-LS0739\F
Kurtz
4/27/05

HOUSE CS FOR SENATE BILL NO. 137()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR SEEKINS

A BILL

FOR AN ACT ENTITLED

1 **"An Act providing that the University of Alaska may evict a tenant from student**
2 **housing that is exempt from the provisions of the Uniform Residential Landlord and**
3 **Tenant Act without resorting to court proceedings under AS 09.45.060 - 09.45.160."**

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

5 *** Section 1. AS 09.45.070 is amended by adding a new subsection to read:**

6 (c) Nothing in AS 09 45.060 - 09.45.160 shall be interpreted to require the
7 University of Alaska to institute a court action to evict a tenant from student housing
8 that is exempted by AS 34.03.330(b)(1) from the provisions of AS 34.03.

LEGAL SERVICES

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

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 27, 2005

SUBJECT: Effect of SB 137 (Work Order No. 24-LS0739\A)

TO: Senator Ralph Seekins
Attn: Joe Michel

FROM: Kathryn L. Kurtz *KLK*
Legislative Counsel

You requested a legal opinion as to the effect of the above noted bill.

Certain rental arrangements are already exempt under state law from the provisions of the Uniform Residential Landlord and Tenant Act (AS 34.03), including those specified in AS 34.03.330(b)(1):

(b) Unless created to avoid the application of this chapter, the following arrangements are not governed by this chapter:

(1) residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services; . . .

This bill provides that nothing in the state statutes governing forcible entry and detainer (AS 09.45.060 - 09.45.160) may be interpreted to require landlords in those rental arrangements specified above to institute court proceedings to recover possession of the residence.

KLK:med
05-313.med

Sec. 14.40.240. Power of president to suspend and expel students.

The power to suspend and expel a student for misconduct or other cause and to reinstate the student is vested solely in the president of the University of Alaska. The president may delegate the exercise of the power to the chancellor or another official on each campus of the university or to the administrative head or director of a community college or other campus or extended unit of the university.

Sec. 34.03.330. Application and exclusions.

(a) This chapter applies to and determines rights, obligations and remedies under a rental agreement, wherever made, for a dwelling unit in this state.

(b) Unless created to avoid the application of this chapter, the following arrangements are not governed by this chapter:

(1) residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services;

(2) occupancy under a contract of sale of a dwelling unit or the property of which it is a part if the occupant is the purchaser or a person who succeeds to the interest of a purchaser;

(3) occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;

(4) transient occupancy in a hotel, motel, lodgings, or other transient facility;

(5) occupancy by an employee of a landlord whose right to occupancy is conditioned upon employment substantially for services, maintenance, or repair to the premises;

(6) occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;

(7) occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes;

(8) occupancy under a rental agreement covering premises used as part of a transitional or supportive housing program that is sponsored or operated by a public corporation or by a nonprofit corporation and that provides shelter and related support services intended to improve the occupant's opportunity to obtain permanent housing.

Sec. ~~09.45.060~~. Prohibition of use of force for entry on realty.

A person may not enter upon any land, tenement, or other real property except in cases where entry is given by law. In those cases the entry may not be made with force but only in a peaceable manner.

Sec. 09.45.070. Action for forcible entry or detention.

(a) When a forcible entry is made upon a premises, or when an entry is made in a peaceable manner and the possession is held by force, the person entitled to the premises may maintain an action to recover the possession.

(b) *[Repealed, Sec. 1 ch 73 SLA 1966].*

Sec. 09.45.050. Undertaking on appeal. [Repealed, Sec. 4 ch 10 SLA 1974].

Repealed or Renumbered

Sec. 09.45.090. Unlawful holding by force.

(a) For property to which the provisions of AS 34.03 (Uniform Residential Landlord and Tenant Act) apply, unlawful holding by force includes each of the following:

(1) when, for failure or refusal to pay rent due on the lease or agreement under which the tenant or person holds, and after service, under AS 09.45.100 (b), of the written notice required by AS 34.03.220(b) by the landlord for recovery of possession of the premises if the rent is not paid, the tenant or person in possession fails or refuses to vacate or pay the rent within seven days;

(2) when,

(A) after a violation of a condition or covenant set out in AS 34.03.120(a), other than a breach of AS 34.03.120 (a)(5) due to the deliberate infliction of

substantial damage to the premises, or after a breach or violation of a condition or covenant in a lease or rental agreement and following service of written notice to quit, the tenant fails or refuses to remedy the breach or to deliver up the possession of the premises within the number of days provided for termination under AS 34.03.220 (a)(2);

(B) after a violation of AS 34.03.120 (a)(5) by deliberate infliction of substantial damage to the premises, following service of written notice to quit, the tenant fails or refuses to deliver up the possession of the premises by the date set out in the written notice to quit under AS 34.03.220 (a)(1);

(C) after a violation of AS 34.03.220 (e) following discontinuance of a public utility service, following service of written notice to quit, the tenant fails or refuses to deliver up the possession of the premises by the date set out in the written notice to quit under AS 34.03.220(e);

(D) the landlord requires the tenant to vacate the premises for a reason set out in AS 34.03.310 (c)(2) or (c)(4) - (7), following service of written notice to quit, the tenant fails or refuses to deliver up the possession of the premises within the longer of 30 days or the period of notice for the landlord's recovery of possession of the premises set out in the rental agreement;

(E) in a mobile home park, there is to be a change in the use of land for which termination of tenancy is authorized by AS 34.03.225(a)(4), following service of written notice to quit, the mobile home dweller or tenant fails or refuses to vacate within the number of days provided for termination under AS 34.03.225 (a)(4);

(F) after termination of a periodic tenancy as prescribed by AS 34.03.290(a) or (b), following service of written notice to quit, the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or after the date of its expiration;

(G) after the tenant has violated AS 34.03.120 (b) or the tenant has used the dwelling unit or allowed the dwelling unit to be used for an illegal purpose in violation of AS 34.03.310 (c)(3) other than a breach of AS 34.03.120 (b), following service of written notice to quit, the tenant fails or refuses to deliver up the possession of the premises within five days; or

(H) following service of written notice to quit, a person in possession continues in possession of the premises without a valid rental agreement, as that term is defined in AS 34.03.360, and without the consent of the landlord; or

(3) when, without a notice to quit, a tenant or person in possession continues in possession of the premises after the tenancy has been terminated by issuance of an order of abatement under AS 09.50.210 (a).

(b) For property to which the provisions of AS 34.03 (Uniform Residential Landlord and Tenant Act) do not apply, unlawful holding by force includes each of the following:

(1) when, for failure or refusal to pay rent due on the lease or agreement under which the tenant or person in possession holds, after service, under AS 09.45.100 (c), of demand made in writing by the landlord for the possession of the premises if the rent is not paid, the tenant or person in possession fails or refuses to vacate or pay the rent due within seven days;

(2) when, following service of a written notice to quit,

(A) after the tenant or person in possession has breached or violated a condition or covenant of the lease or rental agreement other than breach of a covenant or condition set out in (B) of this paragraph, the tenant or person in possession of a premises fails or refuses to deliver up the possession of the premises within 10 days;

(B) after the tenant or person in possession has deliberately inflicted substantial damage to the premises, the tenant or person in possession of a premises fails or refuses to deliver up the possession of the premises on the date required by the landlord; the date specified may not be less than 24 hours after demand for possession of the premises by the landlord;

(C) after the tenant or person in possession has violated AS 34.05.100(a) or has used the premises for or allowed the premises to be used for an illegal purpose, the tenant or person in possession fails or refuses to deliver up the possession of the premises within five days;

(D) for premises the lease or occupation of which is primarily for the purpose of farming or agriculture, after the tenant or person in possession has violated AS 34.05.025, other than a violation that is a breach under (B) or (C) of this paragraph, the tenant fails or refuses to deliver up possession of the premises within 30 days;

(E) a tenancy based upon an estate at will terminates, and the tenant or person in possession continues in possession of the premises; or

(F) a person in possession continues in possession of the premises

(i) at the expiration of the time limited in the lease or agreement under which that person holds; or

(ii) without a written lease or agreement and without the consent of the landlord; or

(3) when, without a notice to quit, a tenant or person in possession continues in the possession of the premises after the tenancy has been terminated by issuance of an order of abatement under AS 09.50.210 (a).

(c) When a landlord who is required to provide written notice to a tenant or person in possession under (a) or (b) of this section, provides notice by mail, notwithstanding any other provision of law, three days must be added to the period set out in (a) or (b) of this section to determine the date on and after which the tenant or person in possession unlawfully holds by force.

Sec. 09.45.100. Notice to quit.

(a) Except where service of written notice is made under AS 09.45.090(a)(1) or (b)(1), or except when notice to quit is not required by AS 09.45.090 (a)(3) or (b)(3), a person entitled to the premises who seeks to recover possession of the premises may not commence and maintain an action to recover possession of premises under AS 09.45.060 ← 09.45.160 unless the person first gives a notice to quit to the person in possession.

(b) To recover possession of premises after a tenant or person in possession has failed or refused to pay rent due, service of the written notice required by AS 34.03.220 (b) or of a demand in writing for possession of the premises

(1) constitutes notice to quit, and service of a separate notice to quit is not required; and

(2) satisfies the requirements of (c) of this section and AS 34.03.310(c).

(c) A notice to quit shall be in writing and shall be served upon the tenant or person in possession by being

(1) delivered to the tenant or person;

(2) left at the premises in case of absence from the premises; or

(3) sent by registered or certified mail.

Sec. 09.45.105. Content of notice to quit.

Notice to quit served upon the tenant or person in possession must

(1) state

(A) the nature of the breach or violation of the lease or rental agreement or other reason for termination of the tenancy of the tenant or person in possession;

(B) in circumstances in which the breach or violation described in (A) of this paragraph may be corrected by the tenant or person in possession to avoid the termination of the tenancy, the nature of the remedial action to be taken, and the date and time by which the corrective actions must be completed in order to avoid termination of the tenancy;

(C) the date and time when the tenancy of the tenant or person in possession under the lease or rental agreement will terminate;

(2) direct the tenant or person in possession to quit the premises not later than the date and time of the termination of the tenancy; and

(3) give notice to the tenant or person in possession that, if the tenancy terminates and the tenant or person in possession continues to occupy the premises, the landlord may commence a civil action to remove the tenant or person and recover possession.

Sec. 09.45.110. Time when action to recover possession may be brought.

An action for the recovery of the possession of the premises may be commenced on or after the date the tenant or person in possession unlawfully holds possession of the dwelling unit or rental premises by force, as determined under AS 09.45.090 .

Sec. 09.45.120. Summons and continuance.

Summons in actions for forcible entry and detainer shall be served not less than two days before the date of trial. A continuance may not be granted for a longer period than two days unless the defendant applying for the continuance gives an undertaking to the adverse party, with sureties approved by the court conditioned to the payment of the rent that may accrue if judgment is rendered against the defendant.

Sec. 09.45.130. Action against persons paying rent in advance.

The service of a notice to quit upon a tenant or person in possession does not authorize an action to be maintained against the tenant or person for the possession of the premises until the expiration of the period for which that tenant or person may have paid rent for the premises in advance. To authorize an action against a tenant or person in possession who has paid rent in advance, a notice must be given at least 10 days before the date the rent is due again in case of a month-to-month tenancy or at least three days before in the case of a week-to-week tenancy.

Sec. 09.45.135. Action against tenant occupying premises abated as nuisance.

In an action under AS 09.45.060 ~~← 09.45.160~~ against a tenant or person in possession of premises for which an order of abatement has been entered under AS 09.50.210 (a), a certified copy of the order of abatement is prima facie evidence of unlawful holding of the premises by force by a person who remains on the premises.

Sec. 09.45.140. Agricultural tenant.

When the leasing or occupation is for the purpose of farming or agriculture, the tenant or person in possession shall, after the termination of the lease or occupancy, have free access to the premises to cultivate and harvest or gather

any crop or produce of the soil planted or sown by the tenant or person before the service of the notice to quit.

Sec. 09.45.150. Inquiry into merits of title.

In an action to recover the possession on the land, tenement, or other real property where the entry is forcible or when the possession is unlawfully held by force, there shall be no inquiry into the merits of the title. Three years' quiet possession of the premises immediately preceding the commencement of the action by the party in possession or those under whom the party holds may be pleaded in bar thereof unless the estate of the party in the premises is ended.

Sec. 09.45.158. Action by nonprofit housing corporation.

A nonprofit housing corporation may designate an officer or employee of the corporation who is not an attorney to commence and maintain an action under AS ~~09.45.060~~ ~~09.45.160~~ on behalf of the corporation against a tenant or person in possession. When, under this section, a nonprofit corporation appears by an officer or employee of the corporation who is not an attorney, the written proceedings shall be in the name of the person representing the corporation and that person is the sole representative of the corporation as between the corporation and the adverse party.

Sec. 09.45.160. Actions for possession of realty.

In an action to recover the possession of real property as provided in AS ~~09.45.630~~, notice to quit, when necessary, may be given as prescribed in AS ~~09.45.060~~ ~~09.45.160~~, and nothing in AS ~~09.45.060~~ ~~09.45.160~~ shall be construed so as to prevent such an action being maintained for the recovery of the possession.

Sec. 11.46.350. Definition (trespassing)

(a) As used in AS 11.46.300 - 11.46.350, unless the context requires otherwise, "enter or remain unlawfully" means to

(1) enter or remain in or upon premises or in a propelled vehicle when the premises or propelled vehicle, at the time of the entry or remaining, is not open to the public and when the defendant is not otherwise privileged to do so;

(2) fail to leave premises or a propelled vehicle that is open to the public after being lawfully directed to do so personally by the person in charge; or

(3) enter or remain upon premises or in a propelled vehicle in violation of a provision in an order issued or filed under AS 18.66.100 - 18.66.180 or issued under former AS 25.35.010 (b) or 25.35.020.

(b) For purposes of this section, a person who, without intent to commit a crime on the land, enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, is privileged to do so unless

(1) notice against trespass is personally communicated to that person by the owner of the land or some other authorized person; or

(2) notice against trespass is given by posting in a reasonably conspicuous manner under the circumstances.

(c) A notice against trespass is given if the notice

(1) is printed legibly in English;

(2) is at least 144 square inches in size;

(3) contains the name and address of the person under whose authority the property is posted and the name and address of the person who is authorized to grant permission to enter the property;

(4) is placed at each roadway and at each way of access onto the property that is known to the landowner;

(5) in the case of an island, is placed along the perimeter at each cardinal point of the island; and

(6) states any specific prohibition that the posting is directed against, such as "no trespassing," "no hunting," "no fishing," "no digging," or similar prohibitions.

**UNIFORM RESIDENTIAL
LANDLORD AND TENANT ACT**

Drafted by the

**NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS**

and by it

**APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES**

at its

**ANNUAL CONFERENCE
MEETING IN ITS EIGHTY-FIRST YEAR
AT SAN FRANCISCO, CALIFORNIA
AUGUST 4 - 11, 1972**

WITH AMENDMENTS APPROVED, AUGUST 1974

WITH COMMENTS

Approved by the American Bar Association at its
Midyear Meeting in Houston, Texas, February, 1974

PART II
SCOPE AND JURISDICTION

§ 1.201. [Territorial Application] This Act applies to, regulates, and determines rights, obligations, and remedies under a rental agreement, wherever made, for a dwelling unit located within this state.

§ 1.202. [Exclusions from Application of Act] Unless created to avoid the application of this Act, the following arrangements are not governed by this Act:

(1) residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service;

(2) occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest;

(3) occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;

(4) transient occupancy in a hotel, or motel [or lodgings [subject to cite state transient lodgings or room occupancy excise tax act]];

(5) occupancy by an employee of a landlord whose right to occupancy is conditional upon employment in and about the premises;

(6) occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;

(7) occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes.

Comment

This Act regulates landlord-tenant relations in residential properties. It is not intended to apply where residence is incidental to another primary purpose such as residence in a prison, a hospital or nursing home, a dormitory owned and operated by a college or school, or residence by a landlord's employee such as a custodian, janitor, guard or caretaker rendering service in or about the demised

premises. This Act is intended to apply to government or public agencies acting as landlords (Section 1.301 (8)).

This Act does not apply to occupancy by a purchaser under a contract of sale. This Act applies to occupancy by the holder of an option to purchase, as distinguished from a contract of sale.

This Act applies to roomers and boarders but is not intended to apply to transient occupancy. In many jurisdictions transient hotel operations are subject to special taxes and regulations and, where available, determinations under such authority constitute appropriate criteria.

All of the exclusions enumerated apply only to genuine, bona fide arrangements not created to avoid the application of the Act and are subject to the test of good faith (see Section 1.302).

[Subsection (3)] A fraternal or social organization is deemed to also cover "athletic club".

[§ 1.203. [Jurisdiction and Service of Process]

(a) The [] court of this state may exercise jurisdiction over any landlord with respect to any conduct in this state governed by this Act or with respect to any claim arising from a transaction subject to this Act. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord may be acquired in a civil action or proceeding instituted in the court by the service of process in the manner provided by this section.

(b) If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by this Act, or engages in a transaction subject to this Act, he may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the [Secretary of State]. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the [Secretary of State], but service upon him is not effective unless the plaintiff or petitioner forthwith mails a copy of the process and pleading by registered or certified mail to the defendant or respondent at his last reasonably ascertainable address. An affidavit of compliance with this section shall be filed with the clerk of the court on or before the return day of the process, if any, or within any further time the court allows.]

Sec. 11.46.350. Definition (trespassing)

(a) As used in AS 11.46.300 - 11.46.350, unless the context requires otherwise, "enter or remain unlawfully" means to

(1) enter or remain in or upon premises or in a propelled vehicle when the premises or propelled vehicle, at the time of the entry or remaining, is not open to the public and when the defendant is not otherwise privileged to do so;

(2) fail to leave premises or a propelled vehicle that is open to the public after being lawfully directed to do so personally by the person in charge; or

(3) enter or remain upon premises or in a propelled vehicle in violation of a provision in an order issued or filed under AS 18.66.100 - 18.66.180 or issued under former AS 25.35.010 (b) or 25.35.020.

(b) For purposes of this section, a person who, without intent to commit a crime on the land, enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, is privileged to do so unless

(1) notice against trespass is personally communicated to that person by the owner of the land or some other authorized person; or

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(4) is placed at each roadway and at each way of access onto the property that is known to the landowner;

(5) in the case of an island, is placed along the perimeter at each cardinal point of the island; and

(6) states any specific prohibition that the posting is directed against, such as "no trespassing," "no hunting," "no fishing," "no digging," or similar prohibitions.

Residence Hall Application/Agreement



This agreement is for fall 2004 and spring 2005 semesters.

If this is a new agreement, return this form with \$260 (\$225 damage/reservation deposit + \$35 non-refundable application fee) to:
 UAF Admissions • P.O. Box 757480, Fairbanks, AK 99775-7480

www.uaf.edu/reslife • tel 907-474-7247 • fax 907-474-6493 • e-mail housing@uaf.edu

Tell us about yourself! Please print.

Name _____ Phone () _____
 Student ID (usually SS#) _____
 Last First Middle
 Present Mailing Address _____ Cell phone () _____
 _____ Other phone () _____
 _____ E-mail address _____
 Permanent Mailing Address _____ Please e-mail all materials

Hall preference _____ Major: _____ I have previously lived on campus.
 (Your hall preferences will be considered, but cannot be guaranteed)
 (1) This agreement begins: Year _____ Fall Spring
 (2) Birth date ____/____/____ Gender: Male Female
 (3) Name of preferred roommate*: _____

Special considerations:

* Roommate requests are granted when space is available, when the requests are mutual, and when both applications are received on or about the same date.

Are you interested in any of these living options?

Double Single* Double-Single**

What is your age? _____

* a room built for one and occupied by one

** a room built for two but occupied by one

Interest in these types of accommodations does not guarantee placement.

Traditional first-time freshmen (younger than 20 years of age with less than 30 post high school credits) must live in designated EDGE halls and enroll in orientation.

Expected university class standing:

Freshman Junior Graduate
 Sophomore Senior

Please mark all that apply to you (please be honest):

Non-Smoker Tidy Early Riser Quiet
 Smoker Less Tidy Night Owl Less Quiet

UAF RESIDENCE HALL CALENDAR

Aug. 29 Halls open, 8 a.m.
 Sept. 2 Classes begin
 Dec. 19 Halls close, noon
 Jan. 18 Halls open, 8 a.m.
 Jan. 20 Classes begin
 May 13 Halls close, noon

The University of Alaska Fairbanks provides equal housing opportunity and assigns units without discrimination on the basis of race, religion, color, sex, physical or mental disability or national origin. The Department of Residence Life has facilities accessible for mobility-impaired students. All correspondence must be in writing from student and shall be mailed to the University at the above postal address. The Student understands that Alaska Statute 34.03 et seq, the Alaska Uniform Residential Landlord Tenant Act does not apply to this Agreement. NOTE: Application for and confirmation of admission to the University of Alaska Fairbanks and application for Residence Hall accommodations are separate transactions, acted upon separately by the University. Return of this Application/Agreement does not guarantee that accommodations will be available in the residence halls. Any questions you have about the terms and conditions of this Agreement should be directed toward the Department of Residence Life prior to signing it. The University shall be entitled to all remedies provided by law in this Agreement.

Please read both sides of this agreement carefully before signing.

I ACCEPT the terms and conditions of this agreement. I understand that by signing this agreement, I am personally (jointly and separately) responsible for compliance with all of the terms of this agreement. Cancellations of housing accommodations after Aug. 1 will result in the forfeiture of my entire damage/reservation deposit plus any other associated housing charges. Room reservations are guaranteed until 9:00 a.m. on the first day of classes. I UNDERSTAND that signing this agreement for fall 2004 obligates me to stay on campus for both fall 2004 and spring 2005 semesters. I UNDERSTAND that by signing this document I am incurring a debt that must be paid (be sure to read the back side of this form to understand your obligation).

Student Signature _____ Date _____

New Agreements: Complete the following if you wish to charge your credit card \$260 (\$225 damage deposit plus \$35 non-refundable application fee): Visa MasterCard Discover

Number _____ Expiration Date _____

FOR RESIDENCE LIFE USE ONLY

RECEIVED BY	DATE	RECEIPT #
CREDITS	HALL	ROOM #
COMMENTS	<input type="checkbox"/> DOUBLE <input type="checkbox"/> DOUBLE SINGLE <input type="checkbox"/> SINGLE	