



LAWS OF ALASKA

1974

Source

SB 501

Chapter No.

120

AN ACT

Relating to title insurance.

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

* Section 1. AS 21.66.010 is repealed and re-enacted to read:

Sec. 21.66.010. PAID IN CAPITAL AND RESERVES. (a) Before a domestic or foreign title insurance company is entitled to a certificate of authority to transact a title insurance business in this state it shall have a paid-up unimpaired cash capital equal to not less than \$250,000, \$100,000 of which shall be deposited with the director of insurance as a guaranty fund for the protection of the insured under policies of title insurance issued by the company.

(b) A domestic or foreign title insurance company shall have on deposit with the director or insurance commissioner of the state of its domicile, before the issuance of any policy of title insurance in this state, the sum of \$100,000 as a guarantee fund for the security and protection of its policyholders or their beneficiaries wherever situated. The amount of this deposit shall be increased by the sum of \$50,000 for each state or territorial subdivision of the United States or the District of Columbia, other than the state of its domicile, in which it becomes qualified to engage in the business of title insurance, less the amount required by and deposited in the other states or territorial subdivisions; however, the deposits shall be for the security and protection of its policyholders or their beneficiaries, wherever situated. When the aggregate of amounts deposited in this or other states or territorial subdivisions or the District of Columbia, has reached the sum of \$750,000 no further deposit is required of the title insurance company as a condition of engaging in the business of title insurance in this state.

(c) If a company is unable to make the deposits required under this section in the state of its domicile because of a lack of statutory authority for making the deposits, the deposits may be made with the director of insurance of this state.

* Sec. 2. AS 21.66.020 is amended to read:

Sec. 21.66.020. DEPOSITS IN GUARANTY FUND. Within 30 days after the filing of each annual statement the corporation shall deposit with the director a sum equal to 10 per cent of the premiums received by it during the preceding year covering property in this state, as shown by the annual statement, until the accumulated deposits, added to the sums originally deposited with the director, as provided herein, total \$100,000 but in no event may the corporation be required to deposit more than \$10,000 in any one year.

* Sec. 3. AS 21.66.030 is amended to read:

Sec. 21.66.030. SECURITIES AUTHORIZED AS DEPOSITS. The deposits required to be kept with the director as a guaranty fund may be made either in lawful money of the United States or in one or more of the following classes of securities:

(1) interest bearing obligations of the United States or of those for the payment of the principal and interest on which the faith of the United States is pledged;

(2) bonds of a state in the United States;

(3) bonds of a municipality in the United States having a population of more than 50,000, or bonds of a municipality, municipal corporation or civil subdivision in this state having a population of more than 2,000, the market value of which bonds, at all times while so deposited, shall be not less than 90 per cent of par value;

(4) a deposit not in excess of \$10,000 in any one bank organized and existing under the laws of this state in a savings deposit account free of offsetting debts and claims insured in full by the Federal Deposit Insurance Corporation and entered in the name of the "director of insurance of the State of Alaska in trust for the holders of the obligations of the (depositing company) under AS 21.-66.020";

(5) a deposit not in excess of \$10,000 in any one issuing institution, in investment certificates or share accounts of savings and loan associations organized and existing under the laws of this state, or of the United States, and holding membership in the Federal Home Loan Bank System; the certificates and share accounts shall be free of offsetting debts and claims and shall be issued in the name of the director in the form indicated in (4) of this section;

(6) with the written approval of the director bonds or notes secured by trust deed or first mortgage upon improved real property in this state not otherwise encumbered, and having a value of at least twice the amount loaned thereon or otherwise insured by an agency of the

United States, which shall be accompanied by a policy of title insurance of a company qualified to insure title in this state insuring that the mortgage or trust deed so deposited is a first lien on the real property covered thereby.

* Sec. 4. AS 21.66.040 is amended to read:

Sec. 21.66.040. SPECIAL GUARANTY FUND. The securities to be deposited as provided in this chapter shall be held by the director as a special guaranty fund securing the faithful performance on the part of the company of all its undertakings and liabilities upon its guaranteed certificates of title, policies of title insurance, or other guarantees of title to property and to the extent of any outstanding liabilities thereon; but shall not be subject to any other outstanding liabilities of the company while the securities are held by the director. They shall be held subject to the following conditions:

(1) the director shall deliver to the company depositing the guaranty fund a receipt in full for all securities deposited with him; the company may from time to time withdraw securities or a part of them on depositing with the director cash or other authorized securities, to at all times maintain the value of the guaranty fund deposit at not less than the amount required by this chapter;

(2) all interest or dividends accruing on the securities deposited with the director under the authority of this chapter shall belong to and at all times be available to the company making the deposit, and the director shall permit the company, as long as it shall continue solvent, to collect the interest or dividends on the securities deposited; the director shall be the agent of both parties to receive, receipt for and pay over the interest or dividends when the same are paid to him by reason of the custody of the deposit, and he is authorized to make the endorsements on the securities which the occasion and the due and orderly course of business may require; the rights of the company to demand of and receive from the director the interest or dividends, shall be subject, however, to the provisions of (3) of this section;

(3) if, under liability on guaranteed certificate of title, or policy of title insurance or other guaranty of title to property, a civil judgment is entered in a court of general jurisdiction in this state against a company which has made a deposit of securities with the director subject to the provisions of this chapter and the judgment has become final either by failure to appeal, dismissal of appeal, or by affirmance on appeal, or otherwise, and the judgment is not paid and satisfied in full within 60 days after the judgment has become final, in every such case the judgment may be enforced against the securities deposited with the director upon petition of the judgment creditor in the same cause wherein judgment was obtained, setting out the facts aforesaid, whereupon it shall be the duty of the court wherein said judgment is entered to direct the issuance of a special execution directed to the proper peace officer, enforcing the executions, in the City of Juneau, Alaska, which execution shall be as near as may be in the

usual form and shall require on the part of the officer the sale of the securities or as much thereof as may be necessary to the satisfaction of the judgment; when application is made for the issuance of the special execution herein provided for, and the court allows the same, the order in which the special execution is authorized shall direct that service of a copy of the judgment and the petition shall be made within five days thereafter upon the director; all proceedings relating to the enforcement of the writ of execution against the securities shall conform as near as may be to the practice in ordinary cases except as herein otherwise specially provided; proceedings under the execution shall be a sufficient authority, where notices aforesaid have been served on the director, for the delivery by the director to the officer of the securities to be sold upon the execution;

(4) except as herein provided, the director shall hold intact the securities deposited with him and shall retain the same until such time as all liabilities under any guaranteed certificate of title or policy of title insurance, or other guaranty of title covering property in this state, issued by the company having deposited the securities, shall have legally terminated, or until such time as all liabilities of said company under such guaranteed certificates of title or policies of title insurance or other guarantees of title shall have been assumed by some other title insurance company authorized to transact business in this state. After the termination of all liability of the title insurance company, and after the director completes an examination into the affairs of the company and determines that all liability against the guaranty fund has been legally terminated or satisfactorily assumed by some other title insurance company licensed to do a title insurance business in this state; he is authorized to immediately return the securities to the said company and revoke the certificate of authority granted the company to do any title insurance business in the state;

(5) however, if the guarantee fund is at any time impaired by reason of the payment of any judgment against the company depositing the funds or for any reason whatsoever and remains so impaired for a period of 30 days after written notice to the company, the director is authorized and it shall be his duty to immediately revoke the certificate of authority granted the company, and to publish a notice of the revocation in a daily paper of general circulation published in the city wherein the company has its principal offices at least once a week for six successive weeks, the expense of the publication to be chargeable against the guaranty fund of the company.

* Sec. 5. AS 21.66.050(a) is amended to read:

(a) Every title insurance company, either foreign or domestic, operating in this state under the provisions of this chapter, shall annually set apart, establish, segregate and maintain at the end of each year into an account to be known as Title Insurance Unearned Premium Reserve Fund, a sum equal to three per cent of its gross premiums on title insurance policies issued during the year then ending covering property in this state. The reserve fund shall be

in addition to the deposit with the director. There shall be no other reserve requirements. The reserve must be maintained separately and apart from the capital of the company, and shall be invested in the securities which are authorized for investment by domestic insurance companies under the laws of this state. Funds accumulated under this provision shall never be used for the payment of an obligation other than those incurred in connection with title insurance, and, in the event of the insolvency of a company, the fund hereby provided shall be used to pay losses and to purchase reinsurance to protect title insurance policyholders even though there are no accrued title insurance claims. The reserve fund shall be considered and shall constitute unearned portions of the original premiums and shall be charged as a reserve liability of the company in determining its financial condition.

* Sec. 6. AS 21.66 is amended by adding new sections to read:

Sec. 21.66.170. DETERMINATION OF INSURABILITY REQUIRED.

(a) No policy or contract of title insurance may be written until the title insurance company conducts or has conducted a reasonable search and examination of the title and has made a determination in insurability of title in accordance with its established underwriting practices. Evidence of the determination shall be preserved and retained in the files of the title insurance company or its agent for a period of not less than 15 years after the policy or contract of title insurance has been issued. In lieu of retaining the original evidence, the title insurance company or the title insurance agent, may, in the regular course of business, establish a system by which all or part of these writings are recorded, copied or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for reproducing the original.

(b) This section does not apply to (1) a company assuming no primary liability in a contract of reinsurance; or (2) a company acting as a co-insurer if one of the other co-insuring companies has complied with this section.

Sec. 21.66.180. GENERAL POWERS. A title insurance company may

(1) do business as defined in sec. 480(1) and (2) of this chapter;

(2) do any act, directly or through a title insurance agent, incidental to making a contract or policy of title insurance, including, but not limited to, conducting or holding an escrow, settlement or closing of a transaction; and,

(3) provide other services relative or incidental to the sale and transfer of real or personal property.

Sec. 21.66.190. LIMITATIONS ON POWERS. (a) An insurer which transacts any class or kind of insurance other than title insurance is not eligible for the issuance or renewal of a certificate of authority to transact the

business of title insurance in this state.

(b) No title insurance company may engage in the business of guaranteeing the payment of the principal or the interest of bonds or other obligations.

Sec. 21.66.200. TITLE PLANT REQUIREMENTS. A title insurance company shall own and maintain in the recording district in which its principal office in the state is located a title plant consisting of adequate maps and fully indexed records showing all instruments of record affecting all land within the recording district for a period of at least 25 years immediately before the date a policy of title insurance is issued by the title insurance company. It shall also directly or through its agent own and maintain a comparable title plant for each additional recording district in which it or its agent maintains an office to transact a title insurance business.

Sec. 21.66.210. JOINT PLANT COMPANIES. (a) Two or more title insurance companies and one or more title insurance agents may apply to the director of insurance to form an association, corporation or other legal entity, for the purpose of engaging in the business of preparing abstracts of title searches from public records or from records to be owned by the entity, upon the basis of which a title insurance agent or a title insurance company will issue title policies. The owners or participants are considered to be in compliance with the provisions of this section if the title plant of the association, corporation or other legal entity complies with the provisions of this section. The application shall contain the following:

- (1) a copy of the proposed articles of incorporation or association and the bylaws or agreement governing the operation of the entity;
- (2) a list of the owners or participants;
- (3) the names and addresses of the persons who will operate the entity, with a description of their experience and qualifications;
- (4) the conditions under which ownership or participation in the entity may be sold or acquired;
- (5) a statement of whether or not title information will be compiled and sold to persons other than owners of or participants in the entity;
- (6) a pro forma balance sheet and other financial information to indicate the sufficiency of financing the entity.

(b) If the director finds that (1) the entity will be adequately financed, (2) the persons who will be operating the entity are qualified and (3) the rules of operation as expressed in the articles of incorporation or association and the bylaws will promote the efficiency of the operation of the subscribing owners or participants and will not unduly restrict competition, he shall issue a certificate of authority to the entity and permit it to organize. Each

application under this section shall be granted or denied in whole or in part by the director within 60 days from the date it is filed. A certificate of authority issued under this section remains in effect until suspended or revoked by the director. The fee for the certificate of authority is \$75 a year. A certificate of authority issued under this section may be suspended or revoked by the director after hearing upon notice if the entity ceases to operate as provided in the application or if the director determines that the operation has become a restraint on competition and is not in the interests of the public. Every entity issued a certificate of authority under this section shall notify the director promptly of every change occurring under this section.

Sec. 21.66.220. NET RETAINED LIABILITY. (a) The net retained liability of a title insurance company under a single title insurance risk assumed in this state may not exceed 50 per cent of the net amount remaining after deducting from the sum of its capital, surplus, unearned premium reserve and voluntary reserves, the value, if any, assigned in the summation to its title plants, as shown in its most recent report on file with the director. The same limitation applies to any secondary risk assumed by means of reinsurance or to a policy of excess co-insurance. Upon application by a title insurance company and the showing of good cause, the director may waive the limitation in connection with the assumption of a particular risk.

(b) Nothing in this section is intended to limit the amount of a single insurance risk, as defined in sec. 480(8) of this chapter, that may be written or assumed by a title insurance company, if (1) it cedes to one or more other title insurance companies, on or before the effective date of the writing or assumption, the portion, or portions, of the risk sufficient to bring its net retained liability within the limits provided in this section; and (2) each cession of risk is also within the limits of this section as applied to the sum of the capital, surplus, unearned premium reserve and voluntary reserves, less the value, if any, assigned in the summation to the title plants of the assuming and reinsuring title insurance company, as shown by its most recent report on file with the director or commissioner of insurance in the state of its domicile.

Sec. 21.66.230. POWER TO REINSURE. A title insurance company authorized to engage in the business of title insurance in this state may cede reinsurance of all or any part of its liability under one or more of its policies or contracts of reinsurance agreements to a title insurance company authorized to engage in the business of title insurance in this or any other state or the District of Columbia. However, no larger amount of reinsurance may be assumed by a title insurance company on a single policy, or contract of title insurance, or on any single title insurance risk as defined in sec. 480(8) of this chapter, than the title insurance company would be permitted to retain if authorized to engage in the business of title insurance in this state. It may also reinsure policies of title insurance issued by other companies on risks whether located in or out of this state. A title insurance company authorized to transact business in this state shall pay to this state

taxes required on all business taxable in this state and reinsured, as provided in this section, with any foreign or alien company not authorized to do business in this state. Issuance of contracts of reinsurance by a title insurance company not authorized to engage in the business of title insurance in a state or the District of Columbia, reinsuring a title insurance company authorized to engage in the business of title insurance in this state on property located in this state, does not of itself constitute the doing of business in this state by the reinsuring company.

Sec. 21.66.240. TITLE PLANTS. A title insurance company may invest in title plants if it complies at all times with the minimum capital investment requirements under this chapter. A title plant shall be considered an asset at its fair value. In determining the fair value of a title plant, no value may be attributed to furniture and fixtures, and the real estate in which the title plant is housed shall be carried as real estate. The value of title abstracts, title briefs, copies of conveyances or other documents, indices and other records comprising the title plant shall be determined by considering the expenses incurred in obtaining them, the age of them, the cost of replacements less depreciation, and all other relevant factors. Once the value of a title plant is determined under this section, the value may be increased only by the acquisition of another title plant by purchase, consolidation or merger; however, in no event may the value of the title plant be increased by additions made to it as part of the normal course of abstracting and insuring titles to real estate. Subject to the limitations in this section and with the approval of the director as provided by sec. 210 of this chapter, a title insurance company may enter into agreements with other title insurance companies to participate in the use, ownership, management and control of a title plant in order to service the needs of all the title insurance companies, or the title insurance companies may hold stock of a corporation owning and operating a title plant for this purpose.

Sec. 21.66.250. TRUST FUNDS. Trust funds or assets held in a fiduciary capacity by a title insurance company which is authorized to do a trust business shall be invested in accordance with AS 06.25.

Sec. 21.66.260. TITLE INSURANCE AGENTS CERTIFICATION. Each title insurance company authorized to transact business in this state shall certify annually to the director the names of all title insurance agents representing it in this state.

Sec. 21.66.270. TITLE INSURANCE AGENTS TO BE LICENSED. Title insurance agents shall be licensed in the manner provided for agents of insurance companies in ch. 27 of this title.

Sec. 21.66.280. AGENTS, BOOKS AND RECORDS. (a) Each title insurance agent shall maintain books of accounts and records and vouchers pertaining to the business of title insurance in a manner that the director, or his authorized representative, may readily ascertain whether the agent has complied with the provisions of this chapter.

(b) A title insurance agent may engage in the business of handling escrows, settlements and closings in connection with the business of title insurance; however,

(1) the agent shall maintain a separate record of all receipts and disbursements of escrow funds and may not commingle the funds with his own funds or with funds held by the agent in any other capacity;

(2) the agent shall comply with the standards of solvency that the director requires; and

(3) the agent shall submit financial statements that the director requires.

(c) If the director determines that an agent has failed to comply with a provision of this section, he may, after a hearing, revoke the license of the agent.

Sec. 21.66.290. AGENT REPLIES TO DIRECTOR INQUIRIES. Each title insurance agent shall reply in writing promptly, with a copy of the reply mailed to each title insurance company for which the agent is acting, to an inquiry of the director relating to his acts as a title insurance agent. Failure to reply is a ground for revocation of the agent's license. In addition, a copy of the inquiry shall be sent by the director to each title insurance company for which the agent is acting.

Sec. 21.66.300. PROHIBITION OF CERTAIN TITLE INSURANCE NAMES. After the effective date of this Act, no agent for a title insurance company may adopt a firm name containing the words "title insurance", "title guaranty", or "title guarantee", unless the words are followed by the words "agent" or "agency" in the same size and type as the words preceding them. This does not apply to a title insurance company acting as an agent for another title insurance company.

Sec. 21.66.310. REBATES PROHIBITED. (a) No title insurer, or officer, employee, attorney, agent or solicitor of a title insurer, may pay, allow or give or offer to pay, allow or give, directly or indirectly, as an inducement to obtaining a title insurance business, a rebate, reduction or abatement of a rate or change made incident to the issuance of the title insurance, a special favor or advantage, money consideration or other inducement. A change made incident to the issuance of the insurance is construed to include, without limitation, escrow, settlement and closing charges.

(b) No insured named in a title insurance policy or any other person directly or indirectly connected with the transaction involving the issuance of a title insurance policy, including, but not limited to a mortgage lender, real estate broker, builder or attorney, or an officer, employee, agent, representative or solicitor of a mortgage lender, real estate broker, builder, attorney, or other person, may knowingly receive or accept, directly or indirectly, a rebate, reduction or abatement of a charge or premium or a special favor or advantage, or a monetary consideration or inducement.

(c) Nothing in this section prohibits (1) the payment

of fees for services actually rendered as a result of a title insurance transaction; or (2) the payment of a commission to a legally appointed title insurance agent who issues the policy of title insurance.

Sec. 21.66.330. EXAMINATION OF RECORDS. If the director has reason to believe that a title insurance agent has violated or is in violation of sec. 310 of this chapter, he shall immediately examine the title insurance agent's books of account and record and vouchers pertaining to the business of title insurance. The title insurance agent shall pay to the director the cost of an examination conducted under this section.

Sec. 21.66.340. ADDITIONAL PENALTY FOR REBATES. A person who violates sec. 310 of this chapter is liable to the state for five times the amount or value of the rebate, reduction, or abatement of any rate or charge made incident to the issuance of title insurance, or a special favor or advantage, or a monetary consideration or inducement.

Sec. 21.66.350. DIVISION OF RATES. Nothing in this chapter prohibits the division of rates and charges between or among a title insurance company and its agent, two or more title insurance companies, one or more title insurance companies and one or more title insurance agents, or two or more title insurance agents, if the division of rates and charges does not constitute an unlawful rebate and is not in payment of a forwarding fee or finder's fee.

Sec. 21.66.360. PURPOSE OF TITLE INSURANCE RATE REGULATION. The purpose of secs. 370 - 400 of this chapter is to promote the public welfare by regulating title insurance rates so that they are not excessive, inadequate or unfairly discriminatory, and to authorize cooperative action between or among title insurance companies in rate making and other matters within the scope of this chapter. Nothing in this chapter is intended to prohibit or discourage uniformity in title insurance rates, rating systems and rating plans and practices.

Sec. 21.66.370. RATE FILING. (a) A title insurance company shall file with the director its schedules of rates, manuals of classifications, rules and plans relating to schedules of rates or manuals of classification, and every modification of the schedules or manuals which it proposes to use in this state. A filing under this section shall contain the effective dates of the documents filed, and indicate the character and extent of the coverage contemplated.

(b) The director shall review the filings as necessary to carry out the provisions of this chapter.

(c) Subject to the provisions of (e) of this section, each filing shall be on file for a period of 30 days before it becomes effective. The director may, upon written notice given within the 30-day period to the person making the filing, extend the waiting period for an additional period, not to exceed 30 days, in order to complete the review of the filing. Additional extensions of the waiting period may also be made with the consent of the title insurance company.

Upon written application by the title insurance company, the director, after review of the application, may authorize a filing or any part of it to become effective upon the expiration of the waiting period or its extension.

(d) Except for rates filed under (e) of this section, a filing which has become effective is considered to meet the requirements of this chapter.

(e) When the director finds that a rate for a particular kind or class of risk cannot practicably be filed before it is used, or any contract or kind of title insurance, by reason of rarity or peculiar circumstances, does not lend itself to advance determination and filing of rates, he may, under appropriate regulations, permit the rate to be used without a previous filing and waiting period.

(f) Beginning 90 days after the effective date of this Act, no title insurance company or agent of a title insurance company may charge a rate for a policy or contract of title insurance except in accordance with filings or rates which are in effect for the title insurance company as provided in this chapter.

(g) The director may not regulate, or require the filing of, rates paid by title insurance companies for reinsurance contracts or agreements, or policies of excess co-insurance.

Sec. 21.66.380. JUSTIFICATION FOR RATES. (a) A rate filing shall be accompanied by a statement of the title insurance company making the filing, setting out the basis on which the rate was determined, with the rates computed. A filing of rates may be justified by the following:

- (1) the experience or judgment of the title insurance company making the filing,
- (2) its interpretation of any statistical data relied upon,
- (3) the experience of other title insurance companies making the filings, or
- (4) any other factors which the title insurance company considers relevant.

(b) The statement and justification provided for in this section shall be open to public inspection.

Sec. 21.66.390. MAKING OF RATES. (a) A title insurance company that makes its own rates shall make rates that are not excessive or inadequate and which do not unfairly discriminate between risks in this state which involve essentially the same exposure to loss and expense elements, and which give due consideration to the following matters:

- (1) the desirability for stability of rate structures;
- (2) the necessity of assuring the financial solvency of title insurance companies in period of economic

depression by encouraging growth in assets of title insurance companies in periods of high business activity; and

(3) the necessity for assuring a reasonable margin of underwriting and operating profit.

(b) A title insurance company that makes its own rates shall adopt basic classifications of policies or contracts of title insurance which shall be used as the basis for rate-making.

Sec. 21.66.400. DISAPPROVAL OF FILINGS. (a) Upon the review at any time by the director of a filing, he shall, before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice, specifying in reasonable detail the matters to be considered at the hearing. Notice of the hearing shall be given to each title insurance company which made a filing, and if, after the hearing, the director finds that the filing or a part of the filing does not meet the requirements of this chapter, he shall issue an order specifying how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is considered no longer effective, if the filing or a part of it has become effective under the provisions of sec. 370 of this chapter. A title insurance company has the right at any time to withdraw a filing or a part of a filing. Copies of the order issued under this section shall be sent to every title insurance company affected. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

(b) A person or organization aggrieved with respect to a filing which is in effect, may make written application to the director for a hearing on the filing. The title insurance company that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, and that the applicant would be aggrieved if his grounds are established, and that his grounds otherwise justify holding such a hearing, he shall, within 30 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company which made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of this chapter, he shall issue an order specifying how the filing or a part of it fails to meet the requirements of this chapter, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every such title insurance company. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

(c) No filing or modification of a filing may be disapproved if the rates in connection with the filing meet the requirements of this chapter.

Sec. 21.66.410. RATE ADMINISTRATION. (a) The director may prescribe by regulation (1) guidelines reasonably adaptable to each of the rating systems on file with him;

(2) a uniform classification of accounts to be observed; (3) statistics to be reported; and (4) uniform forms for reporting this data by all title insurance companies.

(b) Regulations may be promulgated by the director for the interchange of data necessary for the application of rating plans.

(c) In order to more uniformly administer rate regulations, the director and each title insurance company may exchange information and experience data with insurance supervisory officials, title insurance companies and title insurance rating organizations in other states, and may consult with them and with each other with respect to rate making and the application of rating systems.

Sec. 21.66.420. FALSE OR MISLEADING INFORMATION. No title insurance company or title insurance agent may willfully withhold information from, or knowingly give false or misleading information to the director.

Sec. 21.66.430. PENALTIES. (a) The director may, if he finds that a title insurance company, or title insurance agent has violated a provision of this chapter, impose a penalty of not more than \$100 for each violation. However, if the violation is wilful, he shall impose a penalty of not more than \$1,000 for each violation. Penalties imposed under this section are in addition to any other penalties provided by law.

(b) In addition to the penalty provided in (a) of this section, the director may suspend the certificate of authority of a title insurance company, or title insurance agent upon failure to comply with an order of the director within the time limit allowed by the order. No certificate of authority may be suspended for failure to comply with an order until the time prescribed for an appeal has expired, or, if an appeal has been taken, until the order has been affirmed.

(c) The director may determine when a suspension of a certificate of authority becomes effective, and it remains in effect until modified or rescinded by the director, or until the order upon which the suspension is based is modified, rescinded or reversed.

(d) No penalty may be imposed and no certificate of authority may be suspended or revoked except upon a written order of the director, stating his findings, and made after a hearing held upon not less than 10 days written notice to the person or organization, specifying the alleged violation.

Sec. 21.66.440. EXISTING FILINGS AND HEARINGS CONTINUED. All title insurance manuals of classifications, rules and rates, rating plans and their modifications filed before the effective date of this Act shall be considered to have been filed under this chapter. All hearings and investigations pending before the effective date of this Act shall be continued under this chapter.

Sec. 21.66.450. FORMS OF POLICIES AND OTHER CONTRACTS OF TITLE INSURANCE. Each title insurance company shall file

with the director all forms of title policies and other contracts of title insurance which it proposes to issue in this state before their issuance; however, in no event may a title insurance company issue a form of policy or contract before 30 days after it has been filed with the director, unless it has received earlier approval by the director. Unless the director disapproves a form of title policy or contract of title insurance within 30 days from the date of its filing, the filing is considered to be approved.

(b) Forms of title policies and other contracts of insurance, as used in this section, are considered to include preliminary reports of title, binders for insurance, commitments to insure and policies of insurance or guaranty, together with all the terms and conditions of insurance coverage or guaranty that relate to title to any interest in property, offered by a title insurance company. Forms of title policies and other contracts of insurance shall specifically exclude (1) reinsurance contracts or agreements; (2) all specific defects in title that may be ascertained from an examination of the risk and excepted in such reports, binder, commitments or policies, together with any affirmative assurances of the title insurance company with respect to the defects whether given by endorsement or otherwise; and (3) further exceptions from coverage by reason of limitations upon the examination of the risk imposed by an applicant for insurance or through failure of an applicant for insurance to provide the data requisite to a judgment of insurability.

Sec. 21.66.460. FILING REQUIRED FOR ESCROW, SETTLEMENT AND CLOSING CHARGES. (a) Each title insurance company shall file with the director a schedule of the escrow, settlement and closing charges which it proposes to use in this state for these services when performed in connection with the issuance of policies of title insurance. The filing shall state the effective date of the schedule, which shall be not less than 30 days after the date of filing with the director.

(b) All or any part of the schedule may be amended at any time. Each amendment shall be filed with the director, and shall state its effective date, which shall be not less than 30 days after the date of its filing with the director.

(c) Copies of schedules filed under this section shall be retained in each of the offices of a title insurance company in this state, and, upon request shall be furnished to the public.

(d) No title insurance company may make or impose a charge for escrow, settlement or closing services when performed in connection with the issuance of a policy of title insurance except in accordance with the schedule of the charges filed with the director under this section.

Sec. 21.66.470. OTHER SECTIONS APPLICABLE. The provisions of this title governing insurance companies, except to the extent that they are inconsistent with the provisions of this chapter, apply to the business of title insurance and to title insurance companies.

Sec. 21.66.480. DEFINITIONS. In this chapter

(1) "applicants for insurance" means those persons, whether or not prospectively insured, who apply to a title insurance company or to its agent, for title insurance, and who at the time of the application are not agents for a title insurance company;

(2) "business of title insurance" is

(A) the making or proposing to make as insurer, guarantor or surety, a contract or policy of title insurance; or

(B) the transacting or proposing to transact, any phase of title insurance including solicitation, negotiation preliminary to execution, execution of a title insurance contract, and insuring and transacting matters subsequent to the execution of the contract and arising out of it, including reinsurance;

(3) "director" means the director, division of insurance, Department of Commerce;

(4) "net retained liability" means the total liability retained by a title insurance company under a policy or contract of insurance, or under a single insurance risk as defined in or computed in accordance with (6) of this section, less the amount of reinsurance ceded;

(5) "rate" means a charge for title insurance risk, abstracting, searching, examination or determination of insurability and every other activity, exclusive of escrow, settlement or closing charges, whether denominated premium or otherwise, made by a title insurance company or an agent of a title insurance company to an insured or to an applicant for insurance, for a policy or contract of title insurance; however, "rate" does not include charges paid to and retained by an attorney at law, abstracter, surveyor, tax service or any other person acting in a capacity other than as a title insurance agent and on behalf of a client other than a title insurance company, or charges made for special services, even though performed in connection with a title insurance policy or contract;

(6) "single insurance risk" means the insured amount of a policy or contract of title insurance issued by a title insurance company unless two or more policies or contracts are simultaneously issued on different estates in identical real property, in which case, it means the sum of the insured amounts of all of the policies or contracts; however, any policy or contract that insures a mortgage interest that is excepted in a fee or leasehold policy or contract, and which does not exceed the insured amount of the fee or leasehold policy or contract, is excluded in computing the amount of a single insurance risk;

(7) "title insurance" means insuring, guaranteeing or indemnifying owners of real or personal property or the holders of liens or encumbrances on it or others interested therein against loss or damage suffered by reason of

(A) liens, encumbrances upon, defects in or the unmarketability of the title to the property; or

(B) the invalidity or unenforceability of liens or encumbrances on the property;

(8) "title insurance agent" means a person, firm, association, trust, corporation, cooperative, joint-stock company or other legal entity authorized in writing by a title insurance company to solicit title insurance, collect premiums, determine insurability in accordance with the underwriting rules and standards prescribed by the title insurance company which the agent represents, and issue policies in its behalf; however, the term "title insurance agent" does not include officers and salaried employees of a title insurance company;

(9) "title insurance company" means a domestic company organized under the provisions of this title for the purpose of carrying on the business of title insurance, or any foreign title insurance company issued a certificate of authority to transact a title insurance business in this state and any title insurance company having the power and authority to transact a title insurance business within this state as of the effective date of this Act.

* Sec. 7. Nothing in this chapter affects an act done, liability incurred, or right accrued or established, or suit or prosecution pending to enforce a right or penalty under the authority of a statute or regulation existing before the effective date of this Act.

* Sec. 8. AS 21.12.100, 21.66.070, and 21.66.150 are repealed.