



# Insurance Regulation in the (Wild) West: Alaska

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## Credit History - Insurance Scoring

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- AS 21.36.460

(d) An insurer may not

(1) fail to renew or, at renewal, again underwrite or rate a personal insurance policy based in whole or in part on a consumer's credit history or insurance score



## Credit History - Insurance Scoring

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- Division required insurers to file renewal criteria that did not include credit history
- Freezing a consumer's initial credit score for use in renewal underwriting or rating does not comply with the statute



## Credit History - Insurance Scoring

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- Division's interpretation was challenged
  - Insurer position: statute allowed an insurer to continue to use the credit score determined at the new application time
- Superior Court sided with insurer



## Credit History - Insurance Scoring

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- Division appealed to Alaska Supreme Court
  - Supreme Court upheld the Division's interpretation (August 17, 2007)



## Credit History - Insurance Scoring

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- Renewal rating and underwriting may not consider credit information
  - Bulletins B03-07 and B03-11 still apply
- AS 21.36.460(d)(1) does allow an exception to the prohibition if the consumer waives the credit usage ban
  - Waiver must be given each renewal



## Credit History - Insurance Scoring

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- Adverse Action Notices:  
AS 21.36.460(b) requires notice when an insurer takes adverse action against an applicant or insured
  - State credit factors causing the adverse action in a manner that identifies to consumer the basis for the adverse action



# Credit History - Insurance Scoring

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- Adverse Action Notices
  - Notify consumer of
    - Right to request reconsideration
    - Right to correct credit errors
    - Right to obtain a free copy of credit report
  - Provide information
    - To assist with error correction process
    - On ways to improve insurance score





# Credit History - Insurance Scoring

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- Adverse Action defined in AS 21.36.460(i)
  - Cancellation, denial or failure to renew
  - Charging a higher premium than otherwise offered if credit history or score had been more favorable
    - Rating rule application
    - Rating tier assignment
    - Placement with affiliate
  - Reduction or unfavorable change in coverage or limits



# OCIP

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- Owner controlled insurance program
- AS 21.36.065
  - An OCIP must be approved by the director
  - Is allowed only for a major construction project
- AS 21.36.190
  - Authorized and unauthorized insurers may only write OCIPs in accordance with AS 21.36.065



# OCIP

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- Major construction project
  - Construction of a structure, building, facility or roadway, or
  - Renovation of more than 50% of an existing structure, building, facility or roadwayand
  - Contract cost is more than \$50,000,000
  - Project is of a definite term at a geographically defined project site



# Filing Issues

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- Prevent rejected filings by including all required information in the correct format
  - Effective dates at least 30 days from the date received by the division for file and use filings
  - Marked copies of rate and rule pages with new material underlined and deleted items shown with a strike through on the same page
  - State tracking number of an existing filing that is being revised or replaced



# Filing Issues

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- Schedule rating plan
  - Eligibility criteria
  - Description of each risk characteristic in sufficient detail to assist underwriters in applying the plan in a manner that is not unfairly discriminatory
  - Withdraw any previously approved schedule rating plan that affects the same class of insured by specifically identifying the plan being withdrawn



# Filing Issues

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- Schedule rating plan
  - Acknowledge responsibility to comply with standard in sufficient detail to identify those standards
    - Apply to all eligible insureds
    - Apply at each policy renewal
    - Debits and credits must be based on characteristics described in the plan
    - May not duplicate other rating factors



# Filing Issues

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- Increase in use of more complicated models
  - What constitutes adequate support?
    - Method
    - Data
    - Assumptions
    - Output
    - Validation techniques



# Filing Issues

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- How do we address the tension created between proprietary/trade secret concerns with regulatory need to ascertain compliance with insurance laws?