

# ALASKA TORT REFORM SURVEY

## SUMMARY OF LEGISLATION AND SURVEY QUESTIONS

### I. The cap on non-economic damages was revised under AS 09.17.010.

•Before 8/7/97, the cap was \$500,000 for each claim based on a separate incident or injury. Damages for disfigurement or severe physical impairment were excluded from the cap.

•After 8/7/97, the cap was reduced to \$400,000 or the injured person's life expectancy in years multiplied by \$8,000, whichever is greater. For permanent physical impairment or severe disfigurement, a cap was introduced of \$1,000,000 or the person's life expectancy in years multiplied by \$25,000, whichever is greater.

1. a) What effect has the revised cap on non-economic damages had on the amount of insurance business written by your company in Alaska?

<input type="checkbox"/> increased policy count	<input type="checkbox"/> decreased policy count
<input type="checkbox"/> increased premium written	<input type="checkbox"/> decreased premium written
<input type="checkbox"/> no change	<input type="checkbox"/> don't know
<input type="checkbox"/> other (explain) _____	

b) If any effect has been noticed, what lines of business were affected?

<input type="checkbox"/> Physician/Surgeon	<input type="checkbox"/> Products liability
<input type="checkbox"/> Hospital	<input type="checkbox"/> Pollution liability
<input type="checkbox"/> Architect professional liability	<input type="checkbox"/> Employment Practices liability
<input type="checkbox"/> Engineers professional liability	<input type="checkbox"/> Auto liability
<input type="checkbox"/> Lawyers professional liability	<input type="checkbox"/> Auto property damage liability
<input type="checkbox"/> Other professional liability	<input type="checkbox"/> Other liability (explain)
(explain) _____	

c) If no effect has been noticed to date, what effect is anticipated in the future on the availability of liability insurance provided by your company in Alaska?

<input type="checkbox"/> increased policy count	<input type="checkbox"/> decreased policy count
<input type="checkbox"/> increased premium written	<input type="checkbox"/> decreased premium written
<input type="checkbox"/> no change	<input type="checkbox"/> don't know
<input type="checkbox"/> other (explain) _____	

2. a) What effect has the revised cap on non-economic damages had on the cost of insurance coverage written by your company in Alaska?

<input type="checkbox"/> increased liability rates	<input type="checkbox"/> decreased liability rates
<input type="checkbox"/> no change	<input type="checkbox"/> don't know
<input type="checkbox"/> decrease in incurred claim amounts	
<input type="checkbox"/> other (explain) _____	

b) If any effect has been noticed, what lines of business were affected and by how much?

<input type="checkbox"/> Physician/Surgeon	<input type="checkbox"/> Products liability
<input type="checkbox"/> Hospital	<input type="checkbox"/> Pollution liability
<input type="checkbox"/> Architect professional liability	<input type="checkbox"/> Employment Practices liability
<input type="checkbox"/> Engineers professional liability	<input type="checkbox"/> Auto liability
<input type="checkbox"/> Lawyers professional liability	<input type="checkbox"/> Auto property damage liability
<input type="checkbox"/> Other professional liability	<input type="checkbox"/> Other liability (explain)
(explain) _____	

c) If no effect has been noticed to date, what effect is anticipated in the future on the cost of liability insurance provided by your company in Alaska?

<input type="checkbox"/> increased liability rates	<input type="checkbox"/> decreased liability rates
<input type="checkbox"/> no change	<input type="checkbox"/> don't know
<input type="checkbox"/> decrease in incurred claim amounts	
<input type="checkbox"/> other (explain) _____	

3. Do you have any other comments on the effect of the cap on non-economic damages as it relates to the cost and availability of liability insurance provided by your company in Alaska?

**II. A cap on punitive damages became effective August 7, 1997 under AS 09.17.020.**

Punitive damages may not exceed the greater of \$500,000 or three times the compensatory damages with two exceptions:

- if the defendant's action was motivated by financial gain and the adverse consequences were known to the defendant, then punitive damages may not exceed the greater of \$7,000,000, four times the compensatory damages, or four times the aggregate amount of financial gain;
- in an action against an employer to recover damages for unlawful employment practice, punitive damages may not exceed

- 1) \$200,000 if there are less than 100 employees
- 2) \$300,000 if there are 100 or more but less than 200 employees
- 3) \$400,000 if there are 200 or more but less than 500 employees
- 4) \$500,000 if there are 500 or more employees

1. a) Do any liability policies sold by your company, or companies, cover punitive damages?  
 yes Answer parts b) and c).  
 no Skip to Question III. 2.

b) What effect has the cap on punitive damages had on the amount of liability insurance business written by your company in Alaska?

<input type="checkbox"/> increased policy count	<input type="checkbox"/> decreased policy count
<input type="checkbox"/> increased premium written	<input type="checkbox"/> decreased premium written
<input type="checkbox"/> no change	<input type="checkbox"/> don't know
<input type="checkbox"/> other (explain) _____	

c) If any effect has been noticed, what lines of business were affected?

<input type="checkbox"/> Physician/Surgeon	<input type="checkbox"/> Products liability
<input type="checkbox"/> Hospital	<input type="checkbox"/> Pollution liability
<input type="checkbox"/> Architect professional liability	<input type="checkbox"/> Employment Practices liability
<input type="checkbox"/> Engineers professional liability	<input type="checkbox"/> Auto liability
<input type="checkbox"/> Lawyers professional liability	<input type="checkbox"/> Auto property damage liability
<input type="checkbox"/> Other professional liability (explain) _____	<input type="checkbox"/> Other liability (explain) _____

d) If no effect has been noticed to date, what effect is anticipated in the future on the availability of liability insurance provided by your company in Alaska?

<input type="checkbox"/> increased policy count	<input type="checkbox"/> decreased policy count
<input type="checkbox"/> increased premium written	<input type="checkbox"/> decreased premium written
<input type="checkbox"/> no change	<input type="checkbox"/> don't know
<input type="checkbox"/> other (explain) _____	

2. a) What effect has the cap on punitive damages had on the cost of liability insurance coverage written by your company in Alaska?

- |   |  |
|---|--|
| <input type="checkbox"/> increased liability rates          | <input type="checkbox"/> decreased liability rates |
| <input type="checkbox"/> no change                          | <input type="checkbox"/> don't know                |
| <input type="checkbox"/> decrease in incurred claim amounts |  |
| <input type="checkbox"/> other (explain) _____              |  |

b) If any effect has been noticed, what lines of business were affected and by how much?

- |   |   |
|---|---|
| <input type="checkbox"/> Physician/Surgeon                | <input type="checkbox"/> Products liability             |
| <input type="checkbox"/> Hospital                         | <input type="checkbox"/> Pollution liability            |
| <input type="checkbox"/> Architect professional liability | <input type="checkbox"/> Employment Practices liability |
| <input type="checkbox"/> Engineers professional liability | <input type="checkbox"/> Auto liability                 |
| <input type="checkbox"/> Lawyers professional liability   | <input type="checkbox"/> Auto property damage liability |
| <input type="checkbox"/> Other professional liability     | <input type="checkbox"/> Other liability (explain)      |
| (explain) _____   |   |

c) If no effect has been noticed to date, what effect is anticipated in the future on the cost of liability insurance provided by your company in Alaska?

- |   |  |
|---|--|
| <input type="checkbox"/> increased liability rates          | <input type="checkbox"/> decreased liability rates |
| <input type="checkbox"/> no change                          | <input type="checkbox"/> don't know                |
| <input type="checkbox"/> decrease in incurred claim amounts |  |
| <input type="checkbox"/> other (explain) _____              |  |

3. Do you have any other comments on the effect of the cap on punitive damages as it relates to the cost and availability of liability insurance provided by your company in Alaska?

**III. A new section, AS 09.30.070, was added to exclude prejudgment interest for future economic damages, future non-economic damages, or punitive damages.**

1. What effect has the exclusion of prejudgment interest had on the amount of insurance business written by your company in Alaska?

- |  |  |
|--|--|
| <input type="checkbox"/> increased policy count    | <input type="checkbox"/> decreased policy count    |
| <input type="checkbox"/> increased premium written | <input type="checkbox"/> decreased premium written |
| <input type="checkbox"/> no change                 | <input type="checkbox"/> don't know                |
| <input type="checkbox"/> other (explain) _____     |  |

b) If any effect has been noticed, what lines of business were affected?

- |   |   |
|---|---|
| <input type="checkbox"/> Physician/Surgeon                | <input type="checkbox"/> Products liability             |
| <input type="checkbox"/> Hospital                         | <input type="checkbox"/> Pollution liability            |
| <input type="checkbox"/> Architect professional liability | <input type="checkbox"/> Employment Practices liability |
| <input type="checkbox"/> Engineers professional liability | <input type="checkbox"/> Auto liability                 |
| <input type="checkbox"/> Lawyers professional liability   | <input type="checkbox"/> Auto property damage liability |
| <input type="checkbox"/> Other professional liability     | <input type="checkbox"/> Other liability (explain)      |
| (explain) _____   |   |

c) If no effect has been noticed to date, what effect is anticipated in the future on the availability of liability insurance provided by your company in Alaska?

- |  |  |
|--|--|
| <input type="checkbox"/> increased policy count    | <input type="checkbox"/> decreased policy count    |
| <input type="checkbox"/> increased premium written | <input type="checkbox"/> decreased premium written |
| <input type="checkbox"/> no change                 | <input type="checkbox"/> don't know                |
| <input type="checkbox"/> other (explain) _____     |  |

2. a) What effect has the exclusion of prejudgment interest had on the cost of liability insurance coverage written by your company in Alaska?

- |   |  |
|---|--|
| <input type="checkbox"/> increased liability rates          | <input type="checkbox"/> decreased liability rates |
| <input type="checkbox"/> no change                          | <input type="checkbox"/> don't know                |
| <input type="checkbox"/> decrease in incurred claim amounts |  |
| <input type="checkbox"/> other (explain) _____              |  |

b) If any effect has been noticed, what lines of business were affected and by how much?

- |  |   |
|--|---|
| <input type="checkbox"/> Physician/Surgeon                               | <input type="checkbox"/> Products liability                 |
| <input type="checkbox"/> Hospital  | <input type="checkbox"/> Pollution liability                |
| <input type="checkbox"/> Architect professional liability                | <input type="checkbox"/> Employment Practices liability     |
| <input type="checkbox"/> Engineers professional liability                | <input type="checkbox"/> Auto liability                     |
| <input type="checkbox"/> Lawyers professional liability                  | <input type="checkbox"/> Auto property damage liability     |
| <input type="checkbox"/> Other professional liability<br>(explain) _____ | <input type="checkbox"/> Other liability (explain)<br>_____ |

c) If no effect has been noticed to date, what effect is anticipated in the future on the cost of liability insurance provided by your company in Alaska?

- |   |  |
|---|--|
| <input type="checkbox"/> increased liability rates          | <input type="checkbox"/> decreased liability rates |
| <input type="checkbox"/> no change                          | <input type="checkbox"/> don't know                |
| <input type="checkbox"/> decrease in incurred claim amounts |  |
| <input type="checkbox"/> other (explain) _____              |  |

3. Do you have any other comments on the effect of the exclusion of prejudgment interest as it relates to the cost and availability of liability insurance provided by your company in Alaska?

**IV. A new section, AS 09.65.096, was added to ensure that hospitals that comply with disclosure requirements are not liable for the negligence of emergency room physicians who are acting as independent contractors.**

1. Does your company sell hospital liability policies?

- |                              |                       |
|------------------------------|-----------------------|
| <input type="checkbox"/> Yes | Answer Question IV.2. |
| <input type="checkbox"/> No  | Skip to Section V.    |

2. For a hospital liability policy sold before August 7, 1997, did your policy cover negligence of emergency room physicians acting as independent contractors?

- |                              |                       |
|------------------------------|-----------------------|
| <input type="checkbox"/> Yes | Answer Question IV.3. |
| <input type="checkbox"/> No  | Skip to Section V.    |

3. For a hospital liability policy sold on or after August 7, 1997, was the policy revised to exclude coverage for the negligence of emergency room physicians acting as independent contractors?  
 \_\_\_\_\_ Yes      Answer Question IV.4.  
 \_\_\_\_\_ No      Skip to Section V.

4. Were the rates reduced due to the reduction in coverage?  
 \_\_\_\_\_ Yes      By how much? \_\_\_\_\_ %  
 \_\_\_\_\_ No

**V. The statute of repose for bringing action for personal injury, death, or property damage due to construction and design defects was reduced from 15 to 10 years, AS 09.10.055.**

1. a) What effect has the revised statute of repose had on the amount of insurance business written by your company in Alaska?

- |  |  |
|--|--|
| <input type="checkbox"/> increased policy count    | <input type="checkbox"/> decreased policy count    |
| <input type="checkbox"/> increased premium written | <input type="checkbox"/> decreased premium written |
| <input type="checkbox"/> no change                 | <input type="checkbox"/> don't know                |
| <input type="checkbox"/> other (explain) _____     |  |

b) If any effect has been noticed, what lines of business were affected?

- |   |  |
|---|--|
| <input type="checkbox"/> Physician/Surgeon                            | <input type="checkbox"/> Products liability              |
| <input type="checkbox"/> Hospital                                     | <input type="checkbox"/> Pollution liability             |
| <input type="checkbox"/> Architect professional liability             | <input type="checkbox"/> Employment Practices liability  |
| <input type="checkbox"/> Engineers professional liability             | <input type="checkbox"/> Auto liability                  |
| <input type="checkbox"/> Lawyers professional liability               | <input type="checkbox"/> Auto property damage liability  |
| <input type="checkbox"/> Other professional liability (explain) _____ | <input type="checkbox"/> Other liability (explain) _____ |

c) If no effect has been noticed to date, what effect is anticipated in the future on the availability of liability insurance provided by your company in Alaska?

- |  |  |
|--|--|
| <input type="checkbox"/> increased policy count    | <input type="checkbox"/> decreased policy count    |
| <input type="checkbox"/> increased premium written | <input type="checkbox"/> decreased premium written |
| <input type="checkbox"/> no change                 | <input type="checkbox"/> don't know                |
| <input type="checkbox"/> other (explain) _____     |  |

4. a) What effect has the revised statute of repose had on the cost of liability insurance coverage written by your company in Alaska?

- |   |  |
|---|--|
| <input type="checkbox"/> increased liability rates          | <input type="checkbox"/> decreased liability rates |
| <input type="checkbox"/> no change                          | <input type="checkbox"/> don't know                |
| <input type="checkbox"/> decrease in incurred claim amounts |  |
| <input type="checkbox"/> other (explain) _____              |  |

b) If any effect has been noticed, what lines of business were affected and by how much?

- |   |  |
|---|--|
| <input type="checkbox"/> Physician/Surgeon                            | <input type="checkbox"/> Products liability              |
| <input type="checkbox"/> Hospital                                     | <input type="checkbox"/> Pollution liability             |
| <input type="checkbox"/> Architect professional liability             | <input type="checkbox"/> Employment Practices liability  |
| <input type="checkbox"/> Engineers professional liability             | <input type="checkbox"/> Auto liability                  |
| <input type="checkbox"/> Lawyers professional liability               | <input type="checkbox"/> Auto property damage liability  |
| <input type="checkbox"/> Other professional liability (explain) _____ | <input type="checkbox"/> Other liability (explain) _____ |

c) If no effect has been noticed to date, what effect is anticipated in the future on the cost of liability insurance provided by your company in Alaska?

- |   |  |
|---|--|
| <input type="checkbox"/> increased liability rates          | <input type="checkbox"/> decreased liability rates |
| <input type="checkbox"/> no change                          | <input type="checkbox"/> don't know                |
| <input type="checkbox"/> decrease in incurred claim amounts |  |
| <input type="checkbox"/> other (explain) _____              |  |

3. Do you have any other comments on the effect of the revised statute of repose as it relates to the cost and availability of liability insurance provided by your company in Alaska?

**VI. AS 09.30.070(a) revised the rate of interest on judgments, including prejudgment interest, from 10.5% per year to 3% above the 12<sup>th</sup> Federal Reserve District discount rate in effect on January 2 of the year in which the judgment is entered.**

1. a) What effect has the revised interest rate had on the amount of insurance business written by your company in Alaska?

- |  |  |
|--|--|
| <input type="checkbox"/> increased policy count    | <input type="checkbox"/> decreased policy count    |
| <input type="checkbox"/> increased premium written | <input type="checkbox"/> decreased premium written |
| <input type="checkbox"/> no change                 | <input type="checkbox"/> don't know                |
| <input type="checkbox"/> other (explain) _____     |  |

b) If any effect has been noticed, what lines of business were affected?

- |   |   |
|---|---|
| <input type="checkbox"/> Physician/Surgeon                | <input type="checkbox"/> Products liability             |
| <input type="checkbox"/> Hospital                         | <input type="checkbox"/> Pollution liability            |
| <input type="checkbox"/> Architect professional liability | <input type="checkbox"/> Employment Practices liability |
| <input type="checkbox"/> Engineers professional liability | <input type="checkbox"/> Auto liability                 |
| <input type="checkbox"/> Lawyers professional liability   | <input type="checkbox"/> Auto property damage liability |
| <input type="checkbox"/> Other professional liability     | <input type="checkbox"/> Other liability (explain)      |
| (explain) _____   | _____   |

c) If no effect has been noticed to date, what effect is anticipated in the future on the availability of liability insurance provided by your company in Alaska?

- |  |  |
|--|--|
| <input type="checkbox"/> increased policy count    | <input type="checkbox"/> decreased policy count    |
| <input type="checkbox"/> increased premium written | <input type="checkbox"/> decreased premium written |
| <input type="checkbox"/> no change                 | <input type="checkbox"/> don't know                |
| <input type="checkbox"/> other (explain) _____     |  |

2. a) What effect has the revised interest rate had on the cost of liability insurance coverage written by your company in Alaska?

- |   |  |
|---|--|
| <input type="checkbox"/> increased liability rates          | <input type="checkbox"/> decreased liability rates |
| <input type="checkbox"/> no change                          | <input type="checkbox"/> don't know                |
| <input type="checkbox"/> decrease in incurred claim amounts |  |
| <input type="checkbox"/> other (explain) _____              |  |

b) If any effect has been noticed, what lines of business were affected and by how much?

- |   |   |
|---|---|
| <input type="checkbox"/> Physician/Surgeon                | <input type="checkbox"/> Products liability             |
| <input type="checkbox"/> Hospital                         | <input type="checkbox"/> Pollution liability            |
| <input type="checkbox"/> Architect professional liability | <input type="checkbox"/> Employment Practices liability |
| <input type="checkbox"/> Engineers professional liability | <input type="checkbox"/> Auto liability                 |
| <input type="checkbox"/> Lawyers professional liability   | <input type="checkbox"/> Auto property damage liability |
| <input type="checkbox"/> Other professional liability     | <input type="checkbox"/> Other liability (explain)      |
| (explain) _____   | _____   |

c) If no effect has been noticed to date, what effect is anticipated in the future on the cost of liability insurance provided by your company in Alaska?

- increased liability rates
- no change
- decrease in incurred claim amounts
- other (explain) \_\_\_\_\_
- decreased liability rates
- don't know

3. Do you have any other comments on the effect of the revised interest rate as it relates to the cost and availability of liability insurance provided by your company in Alaska?

CONTACT INFORMATION

Name of person completing the survey: \_\_\_\_\_  
Title: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
E-mail: \_\_\_\_\_  
Contact address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

One survey may be completed for each individual company or for a group of companies in the aggregate.

Individual       Group

NAIC Group Code:  
NAIC Company Code(s) and Company Name(s): (use separate sheet if needed)