

DRAFT BULLETIN

Will not be adopted unless regulations are approved

BULLETIN B??-??

TO: ALL LICENSEES, INSURANCE COMPANIES, AND INTERESTED PARTIES

RE: ADDITIONAL NOTICES FOR COVERAGE FOR ALASKA RULE OF CIVIL PROCEDURE 82

Due to changes regarding the minimum standards that insurance policies must meet related to providing coverage for attorney fees taxable against an insured under Alaska Rule of Civil Procedure 82, this bulletin is being issued to provide additional notice templates for insurers regarding attorneys' fees.

Insurers issuing policies that limit coverage for attorney fees taxable against an insured under Alaska Rule of Civil Procedure 82 are required by 3 AAC 26.550 to provide a policyholder notice that conforms with the division's example notices. Bulletin 96-04 introduced Notices A, B, C, and D which apply to certain types of policies. Those notices remain available for their respective types of policies. The revised standards now necessitate two additional notices which are attached to this Bulletin and designated as Attorney Fees Coverage Notices E and F.

If you have questions regarding this bulletin, please contact the Division of Insurance, P.O. Box 110805, Juneau, AK 99811-0805; (907) 465-2515; or via email at insurance@alaska.gov.

Dated _____, 2020.

Lori Wing-Heier
Director

**ALASKA DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
ATTORNEY FEES COVERAGE NOTICE E**

**THIS POLICY LIMITS COVERAGE FOR ATTORNEY FEES UNDER ALASKA RULE
OF CIVIL PROCEDURE 82**

In any suit in Alaska in which we have neither a right nor a duty to provide a defense but we have agreed to indemnify an insured for the costs of defense in addition to the limits of liability, our obligation under the applicable coverage to pay attorneys' fees taxable as costs against the insured is limited as follows:

Alaska Rule of Civil Procedure 82 provides that if you are held liable, some or all of the attorney fees of the person making a claim against you must be paid by you. The amount that must be paid by you is determined by Alaska Rule of Civil Procedure 82. We provide coverage for attorney fees for which you are liable under Alaska Rule of Civil Procedure 82 subject to the following limitation:

We will not pay that portion of any attorney's fees that is in excess of fees calculated by applying the schedule for contested cases in Alaska Rule of Civil Procedure 82(b)(1) to the limit of liability of the applicable coverage.

This limitation means the potential costs that may be awarded against you as attorney fees may not be covered in full. You will have to pay any attorney fees not covered directly.

For example, the attorney fees provided by the schedule for contested cases in Alaska Rule of Civil Procedure 82(b)(1) are:

20% of the first \$25,000 of a judgment;
10% of the amounts over \$25,000 of a judgment.

Therefore, if a court awards a judgment against you in the amount of \$125,000, in addition to that amount you would be liable under Alaska Rule of Civil Procedure 82(b)(1) for attorney fees of \$15,000, calculated as follows:

	20% of \$25,000		\$5,000
	10% of \$100,000		\$10,000
Total Award	\$125,000	Total Attorney Fees	\$15,000

If the limit of liability of the applicable coverage is \$100,000, we would pay \$100,000 of the \$125,000 award, and we would also indemnify you for your costs of defense plus \$12,500 for Alaska Rule of Civil Procedure 82(b)(1) attorney fees, calculated as follows:

20% of \$25,000	\$5,000
10% of \$75,000	\$7,500

Total Limit of Liability	\$100,000	Total Attorney Fees Covered	\$12,500
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You would be liable to pay, directly and without our assistance, the remaining \$25,000 in liability plus the remaining \$2,500 for attorney fees under Alaska Rule of Civil Procedure 82 not covered by this policy.

**ALASKA DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
ATTORNEY FEES COVERAGE NOTICE F**

**THIS POLICY DOES NOT PROVIDE COVERAGE FOR ATTORNEY FEES UNDER
ALASKA RULE OF CIVIL PROCEDURE 82**

This policy provides "defense-only coverage". We have no obligation to pay attorney fees taxable as costs against the insured under Alaska Rule of Civil Procedure 82 for claims that are covered for defense costs only. This applies regardless of whether the defense-only coverage includes a right or duty to defend or indemnifies an insured for the costs of defense.

"Defense-only coverage" means liability insurance covering defense costs but not settlements or indemnity payments related to events that give rise to the covered defense costs.

This limitation means that the potential costs that may be awarded against you as attorney fees under Alaska Rule of Civil Procedure 82 are not covered by this policy. You will have to pay all attorney fees under Alaska Rule of Civil Procedure 82 directly.