



HB 401: Insurance; Reinsurance; Valuation; Credits
Sectional Analysis

Credit for Reinsurance (amended model act)

Sec. 1: repeals and reenacts AS 21.12.020 (Reinsurance credit allowed a domestic ceding insurer) to more closely align the statute with the NAIC *Credit for Reinsurance Model Law* and to add provisions relating to foreign reinsurance collateral.

AS 21.12.020. Reinsurance credit allowed a domestic ceding insurer

- Subsection (a) allows a domestic ceding insurer to receive credit for reinsurance transactions as either an asset or as a deduction from liability on account of the reinsurance ceded provided the reinsurer and the assuming insurer meets certain conditions specified under section; the director may adopt regulations to specify additional requirements relating to (1) the valuation of assets or reserve credits; (2) the amount and forms of security supporting reinsurance arrangements; and (3) the circumstances under which credit will be reduced or eliminated.
- Subsection (b) allows a domestic ceding insurer to receive credit for reinsurance transactions when the assuming insurer is licensed to transact insurance or reinsurance in this state.
- Subsection (c) allows a domestic ceding insurer to receive credit for reinsurance transactions when the assuming insurer is accredited by the director as a reinsurer in this state; the subsection also provides conditions an assuming insurer must meet to be accredited.
- Subsection (d) allows a domestic ceding insurer to receive credit for reinsurance transactions when the assuming insurer is domiciled in a state, or in the case of a United States branch of an alien assuming insurer, is entered through a state accredited by the NAIC and that employs standards regarding credit for reinsurance ceded which are substantially similar to the standards under subsections (b) and (c), and meets other requirements set forth in the subsection.
- Subsection (e) allows a domestic ceding insurer to receive credit for reinsurance transactions when the assuming insurer maintains a trust fund in a qualified United States financial institution for payment of valid claims of its United States domiciled ceding insurers, their assigns, and successors; and the assuming insurer and trust meets other requirements set forth in the subsection; the subsection also provides additional requirements for single assuming insurers, groups including incorporated and individual unincorporated insurers, and groups of incorporated insurers under common administration.
- Subsection (f) allows a domestic ceding insurer to receive credit for reinsurance transactions when the assuming insurer is certified by the director as a reinsurer in this state and secures its obligations in accordance with the requirements set forth in the subsection; the

subsection provides additional requirements an association, including an incorporated underwriter and an individual unincorporated underwriter, must meet to be a certified reinsurer; under the subsection, the director must create and publish a list of qualified jurisdictions under which an assuming insurer is eligible to be considered for certification subject to certain conditions set forth in the subsection, and must assign a financial strength rating to each certified reinsurer giving consideration to acceptable rating agencies pursuant to regulations adopted by the director; the subsection sets forth requirements for a certified reinsurer to secure obligations assumed from United States domiciled ceding insurers; the director may defer to another jurisdiction's certification and rating and consider the reinsurer to be certified if the jurisdiction is accredited by the NAIC; a certified reinsurer that ceases to assume new business may request to maintain its certification in inactive status in order to qualify for a reduction in security for its in-force business but must continue to comply with all applicable requirements; the director must assign a rating taking into account, if relevant, the reasons why the reinsurer is not assuming new business.

- Subsection (g) allows a domestic ceding insurer to receive credit for reinsurance transactions ceded to an assuming insurer that does not meet the requirements of subsections (b), (c), (d), or (f) of this section but only to the insurance of risks in jurisdictions where the reinsurance is required by that jurisdiction.
- Subsection (h) provides that if the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this state, a domestic ceding insurer may receive credit for reinsurance transactions under subsections (d) and (e) of this section if the assuming insurer agrees in the reinsurance agreements to submit to the jurisdiction of a court in the United States, comply with court jurisdiction requirements, abide by the court's, or appellate court's, final decision, and designate an attorney resident in the United States upon whom may be served lawful process in an action, suit, or proceeding.
- Subsection (i) provides that if an assuming insurer does not meet the requirements under subsections (b), (c), or (d) of this section, a domestic ceding insurer may only receive credit for reinsurance transactions with the assuming insurer when the assuming insurer agrees to specified conditions, which must be in the trust agreement.
- Subsection (j) specifies the procedures for the director to suspend or revoke a reinsurer's accreditation, or certification when the reinsurer ceases to meet the requirements for accreditation or certification.
- Subsection (k) sets forth steps a ceding insurer must take to limit the ceding insurer's concentration of risk to a reinsurer or a group of reinsurers.
- Subsection (l) allows a domestic ceding insurer to receive credit as either an asset or a reduction from liability, for reinsurance transactions ceded to an assuming insurer when the assuming insurer that does not meet the requirements of subsections (a) – (k) of this section, in an amount not exceeding the liabilities carried by the ceding insurer; the director may by regulation adopt specific additional requirements relating to the valuation of assets or reserve credits, the amount and forms of security supporting arrangements, and the circumstances where credit will be reduced or eliminated, subject to statutory requirements specified in the subsection.
- Subsection (m) defines the term "qualified United States financial institution."
- Subsection (n) provides authority for the director to adopt regulations implementing the section, and relating to reinsurance arrangements subject to statutory requirements specified in the subsection.

Standard Valuation Law (commonly referred to as Principle Based Reserving,
or PBR)

Sec. 2: amends AS 21.18.110(a) to apply the valuation requirements for reserves, the calculation of reserves, and the minimum standard for the valuation of reserves set forth in the subsection to only those policies and contracts issued before the operative date of the valuation manual described in AS 21.18.112.

Sec. 3: amends AS 21.18.110(b) to not apply the subsection to policies and contracts subject to AS 21.18.112 and to update or correct the cross-references to other parts of the section.

Sec. 4: amends AS 21.18.110(f) replaces "in" with "a" to make the sentence read correctly.

Sec. 5: amends AS 21.18.110(j) to update and correct a cross-reference to other parts of the section.

Sec. 6: amends AS 21.18.110(q) to replace "insurance company" with "insurer" to be consistent with the remaining section and chapter.

Sec. 7: amends AS 21.18.110(s) to replace "insurance company" with "insurer" to be consistent with the remaining section and chapter.

Sec. 8: amends AS 21.18.110(t) to replace "a qualified" actuary with "the appointed" actuary to be consistent with the model law. The model defines an "appointed actuary" to mean a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in Section 3B of the model (AS 21.18.112) and defines "qualified actuary" to mean an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

Sec. 9: adds a new subsection to AS 21.18.110 to define the term "insurer."

Sec. 10: adds a new section to AS 21.18.

AS 21.18.112 (Standard valuation for policies and contracts issued on or after the operative date of the valuation manual) to implement PBR.

- Subsection (a), which is similar to AS 21.18.110(a), requires the director to have insurers (domestic, foreign and alien) value their reserve liabilities for life insurance, annuity, pure endowment, accident and health, and deposit type contracts. For foreign and alien insurers, the director may rely on a supervisory official of any relevant State for the valuation if the valuation meets the minimum standards of this section.
- Subsection (b) adopts the valuation manual as the standard to follow for new accident and health insurance contracts as of the dates in that manual. For accident and health insurance contracts issued prior to the valuation manual, the valuation is to follow previous standards under AS 21.18.080, 21.18.082, 21.18.084, and 21.18.086.
- Subsection (c) is similar to AS 21.18.110(m) – (o) and (q) – (r), which requires the insurer to annually submit an actuarial memorandum from an appointed actuary to the director stating the reserves make adequate provision for the liabilities and follow the valuation standards.

The subsection also describes the actuarial opinion requirements; actuarial opinions submitted by a foreign or alien insurer; the liability of an appointed actuary; and specified conditions where the director may engage a qualified actuary at the expense of the insurer.

- Subsection (d) references the operational date of the valuation manual and describes what the valuation manual must specify with two exceptions: (1) AS 21.18.112(d)(4) which requires the valuation standards under AS 21.18.110 to be utilized when there is no specific valuation requirement in the valuation manual or when, in the opinion of the director, a specific valuation requirement in the valuation manual is not in compliance with this section; and (2) AS 21.18.112(d)(6) where the director may require an insurer to change an assumption or method that the director believes is necessary to comply with the requirements of the valuation manual or this section. The subsection also authorizes the director to engage a qualified actuary.
- Subsection (e) requires an insurer, after the operative date of the valuation manual to establish reserves using a principle-based valuation that meets the conditions listed in the subsection for policies and contracts as specified in the valuation manual an insurer must establish principle based reserves based on the valuation manual.
- Subsection (f) requires insurers to submit mortality, morbidity, policyholder behavior, or expense experience, and other data as prescribed in the valuation manual.
- Subsection (g) provides, with some exceptions, that an insurer's confidential information is confidential by law, not subject to disclosure under AS 40.25.110 – 40.25.220, not subject to subpoena or discovery, and not admissible in evidence in a private civil action. The director may use the information in furtherance of a regulatory or legal action brought against the insurer as part of the director's official duties. The director also may receive and share insurer information with other regulatory agencies and the NAIC and enter into agreements governing the sharing and use of information.
- Subsection (h) defines the term "confidential information".

Sec. 11: adds new paragraphs to AS 21.18.900.

- Paragraph 8 defines the term "accident and health insurance".
- Paragraph 9 defines the term "appointed actuary".
- Paragraph 10 defines the term "deposit-type contract".
- Paragraph 11 defines the term "insurer".
- Paragraph 12 defines the term "life insurance".
- Paragraph 13 defines the term "policyholder behavior".
- Paragraph 14 defines the term "principle-based valuation".
- Paragraph 15 defines the term "qualified actuary".
- Paragraph 16 defines the term "tail risk".
- Paragraph 17 defines the term "valuation manual".

Sec. 12: amends AS 21.45.300(a) to provide for purposes of the section that the operative date of the valuation manual means January 1 of the first calendar year that the valuation manual as defined in AS 21.18.112 is effective.

Sec. 13: amends AS 21.45.300(t), which relates to the calculation of adjusted premiums and present values for policies of ordinary insurance, sets forth the mortality tables that may be used for policies issued prior to, and on or after, the operative date of the valuation manual.

Sec. 14: amends AS 21.45.300(u) sets forth the nonforfeiture interest rate to be used prior to, and on or after, the operative date of the valuation manual.

Sec. 15: adds a new subsection to AS 21.45.300 defining the "operative date of the valuation manual."

Sec. 16: provides for an uncodified new section outlining an indirect court rule amendment that AS 21.18.112(g) has the effect of changing Rule 502, Alaska Rules of Evidence, by clarifying that an insurer's confidential information under AS 21.18.112(g) is considered a return or report.

Sec. 17: provides for an uncodified new section outlining the timing of when the director may adopt regulations.

Sec. 18: provides for an immediate effective date for section 24 of the Act.

Sec. 19: provides that this Act take effect immediately.