

CS FOR HOUSE BILL NO. 401(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/2/18

Referred: Rules

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to insurance; relating to credit for reinsurance; relating to insurance**
2 **standard valuation; and providing for an effective date."**

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

4 *** Section 1.** AS 21.12.020(a) is amended to read:

5 (a) Credit for reinsurance transactions is [SHALL BE] allowed a domestic
6 ceding insurer as either an asset or a deduction from liability because [ON
7 ACCOUNT] of reinsurance ceded only when the reinsurer meets the requirements
8 of (1) - (6) this subsection. The director may, by regulation adopted under (m)(2)
9 of this section, specify additional requirements relating to, or setting out, the
10 valuation of assets or reserve credits, the amount and forms of security
11 supporting reinsurance arrangements described in (m)(2) of this section, and the
12 circumstances under which credit will be reduced or eliminated. Credit is
13 allowed under (1) - (3) of this subsection with respect to cessions of a kind or class
14 of business that the assuming insurer is licensed or permitted to write or assume in its

1 state of domicile or, in the case of a United States branch of an alien assuming insurer,
 2 in the state through which it is entered and licensed to transact insurance or
 3 reinsurance. **Credit is allowed under (3) or (4) of this subsection only if the**
 4 **applicable requirements in (b) of this section have been satisfied. Credit is**
 5 **allowed when** [AND ONLY IF] the reinsurance is ceded to an **assuming insurer that**

6 (1) [ASSUMING INSURER THAT] is licensed to transact insurance
 7 or reinsurance in this state;

8 (2) [ASSUMING INSURER THAT] is accredited **by the director** as a
 9 reinsurer in this state; an accredited reinsurer is one that

10 (A) files **with the director** evidence of submission to this
 11 state's jurisdiction, submits to this state's authority to examine its books and
 12 records [UNDER AS 21.06.120], is licensed to transact insurance or
 13 reinsurance in at least one state that is accredited by the National Association
 14 of Insurance Commissioners, or, in the case of a United States branch of an
 15 alien admitted insurer, is entered through and licensed to transact insurance or
 16 reinsurance in at least one state that is accredited by the National Association
 17 of Insurance Commissioners;

18 (B) **demonstrates to the satisfaction of the director that it**
 19 **has adequate financial capacity to meet its reinsurance obligations and is**
 20 **otherwise qualified to assume reinsurance from domestic insurers; an**
 21 **assuming insurer is considered to meet the requirement at the time of**
 22 **application if the assuming insurer** maintains at least \$20,000,000 in
 23 policyholder surplus and **the assuming insurer's** [WHOSE] accreditation has
 24 not been denied by the director within 90 days after application to the director
 25 [, OR MAINTAINS LESS THAN \$20,000,000 IN POLICYHOLDER
 26 SURPLUS AND WHOSE APPLICATION FOR ACCREDITATION HAS
 27 BEEN APPROVED BY THE DIRECTOR]; and

28 (C) files annually with the director a copy of the reinsurer's
 29 annual [FINANCIAL] statement filed with the insurance **supervisory official**
 30 [DEPARTMENT] of the reinsurer's state of domicile [OR STATE OF
 31 ENTRY] and a copy of the reinsurer's most recent audited financial statement;

(3) [ASSUMING INSURER THAT] 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 National Association of Insurance Commissioners that employs standards regarding credit for reinsurance ceded substantially similar to those applicable under (1) and (2) of this subsection, [THE ASSUMING INSURER] maintains a policyholder surplus of at least \$20,000,000, and [THE ASSUMING INSURER] submits to the authority of this state to examine its books and records; the surplus requirements in this paragraph do not apply to reinsurance ceded and assumed under a pooling arrangement among insurers in the same holding company system;

(4) [ASSUMING ALIEN INSURER THAT

(A)] maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of **the assuming insurer's** [ITS] United States domiciled ceding insurers, and their assigns and successors; **credit for reinsurance under this paragraph shall be granted only if the following requirements are met** [IN INTEREST, THAT CONFORMS TO THE FOLLOWING REQUIREMENTS]:

(A) [(i)] the trust and each amendment to the trust **is** [SHALL BE] established in a form approved by the insurance supervisory official of the state where the trust is domiciled or the insurance supervisory official of another state who, under the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust; the form of the trust and each trust amendment **is** [SHALL BE] filed with the insurance supervisory official of every state in which the beneficiaries of the trust are domiciled; the trust instrument **provides** [MUST PROVIDE] that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States; the trust **vests** [SHALL VEST] legal title to its assets in the trustees of the trust for its United States domiciled ceding insurers, their assigns, and successors in interest; the trust and the assuming insurer are subject to examination as determined by the director [, AND THE ASSUMING INSURER SHALL SUBMIT TO EXAMINATION OF ITS BOOKS AND RECORDS BY THE DIRECTOR AND BEAR THE

EXPENSE OF EXAMINATION]; the trust **remains** [MUST REMAIN] in effect for so long as the assuming insurer has outstanding liabilities due under the reinsurance agreements subject to the trust;

(B) [(ii)] on or before March 1 of each year, the trustees [SHALL] report in writing to the director on the balance of the trust, [AND] list the trust's investments at the end of the preceding year, and [SHALL] certify the date of termination of the trust, if so planned, or certify that the trust does not expire before the following December 31;

(C) [(iii)] in the case of a single assuming insurer, the trust **consists** [SHALL CONSIST] of trust assets not less than the assuming insurer's liabilities attributable to reinsurance ceded by the United States domiciled ceding insurers and, in addition, **except as provided in (D) of this paragraph, the assuming insurer maintains** [INCLUDE] a trust surplus of not less than \$20,000,000 for the benefit of the United States domiciled ceding insurers as additional security for the liabilities covered by the trust; the single assuming insurer shall make available to the director an annual certification of the insurer's solvency by an independent certified public accountant or an accountant holding a substantially equivalent designation as determined by the director; **at any time after the assuming insurer permanently discontinues underwriting new business secured by a trust for not less than three years, the insurance supervisory official with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus if, based on an assessment of the risk, the insurance supervisory official finds that the new required surplus level is adequate for the protection of United States domiciled ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development; the risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and must consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency; the**

minimum required trusteed surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States domiciled ceding insurers covered by the trust;

(D) [(iv)] in the case of a group, including incorporated and individual unincorporated insurers,

(i) the trust consists [SHALL CONSIST] of, for reinsurance ceded under the reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, a trusteed account in an amount not less than the respective insurers' several liabilities attributable to business ceded by United States domiciled ceding insurers to any insurer of the group, for reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this section, a trusteed account not less than the respective insurers' several insurance and reinsurance liabilities attributable to business written in the United States, and, in addition to an applicable trust described in this sub-subparagraph, trust assets representing the group's liabilities attributable to business ceded by United States domiciled ceding insurers [AND, IN ADDITION,] include a trust surplus not less than \$100,000,000 held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account as additional security for the group's liabilities covered by the trust; **and**

(ii) the incorporated members of the group **are** [MAY] not [BE] engaged in any business other than underwriting as a member of the group and are subject to the same level of solvency regulation and control by the group's domiciliary regulator as [ARE] the unincorporated members; within 90 days after **the group's** [ITS] financial statements are due to be filed with the group's domiciliary

regulator, the group shall make available to the director an annual certification of the solvency of each insurer by the group's domiciliary regulator or, if the certification is unavailable, financial statements, prepared by an independent certified public accountant, or an accountant holding a substantially equivalent designation as determined by the director, for each underwriter member of the group;

(E) [(v)] in the case of a group of incorporated insurers under common administration [THAT COMPLIES WITH THE REPORTING REQUIREMENTS CONTAINED IN (ii) OF THIS SUBPARAGRAPH,] that has continuously transacted an insurance business outside the United States for at least three years immediately before making application for accreditation [, THAT SUBMITS TO THIS STATE'S AUTHORITY TO EXAMINE ITS BOOKS AND RECORDS AND BEARS THE EXPENSE OF THE EXAMINATION,] and that has aggregate policyholders' surplus of \$10,000,000,000 **or more**, the trust **consists** [SHALL CONSIST] of trust assets in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to a member of the group under reinsurance contracts issued in the name of the group; and the group

(i) maintains [SHALL MAINTAIN] a joint trustee surplus, of which \$100,000,000 **is** [SHALL BE] held jointly for the benefit of United States domiciled ceding insurers of a member of the group as additional security for the group's liabilities covered by the trust;

(ii) not later than [, AND, WITHIN] 90 days after **the group's** [ITS] financial statements are due to be filed with the group's domiciliary regulator, **ensures** each member of the group **makes** [SHALL MAKE] available to the director an annual certification of the underwriter member's solvency by the member's domiciliary regulator and financial statement of each underwriter member prepared by **the member's** [ITS] independent certified public accountant [,] or an

1 accountant holding a substantially equivalent designation as determined
2 by the director; and

3 (iii) submits to examination of its books and records
4 by the director and bears the expense of the examination;

5 (F) the assuming insurer [(B)] reports annually to the director
6 information substantially the same as that required to be reported on the
7 National Association of Insurance Commissioners' annual statement form by
8 licensed insurers [TO ENABLE THE DIRECTOR TO DETERMINE THE
9 SUFFICIENCY OF THE TRUST FUND];

10 (5) is eligible for certification by the director as a reinsurer in this
11 state if the assuming insurer secures its obligations under the following
12 requirements:

13 (A) the assuming insurer must

14 (i) be domiciled and licensed to transact insurance
15 or reinsurance in a qualified jurisdiction;

16 (ii) maintain minimum capital and surplus, or its
17 equivalent, in an amount set out in regulations adopted by the
18 director;

19 (iii) maintain financial strength ratings from two or
20 more rating agencies as required under regulations adopted by the
21 director;

22 (iv) agree to submit to the jurisdiction of this state
23 and agree to provide security for 100 percent of the assuming
24 insurer's liabilities attributable to reinsurance ceded by United
25 States domiciled ceding insurers if the assuming insurer resists
26 enforcement of a final United States judgment;

27 (v) agree to meet applicable information filing
28 requirements as determined by the director, both with respect to
29 an initial application for certification and on an ongoing basis; and

30 (vi) satisfy other requirements for certification as
31 required by the director;

1 (B) in addition to satisfying the requirements under (A) of
 2 this paragraph, an association, including an incorporated underwriter and
 3 an individual unincorporated underwriter,

4 (i) shall satisfy the association's minimum capital
 5 and surplus requirements through the capital and surplus
 6 equivalents, net of liabilities, of the association and the association's
 7 members, which must include a joint central fund that may be
 8 applied to any unsatisfied obligation of the association or a member
 9 of the association, in an amount determined by the director to
 10 provide adequate protection;

11 (ii) may not engage in any business other than
 12 underwriting as a member of the association and be subject to the
 13 same level of regulation and solvency control by the association's
 14 domiciliary regulator as are the unincorporated members; and

15 (iii) shall, not later than 90 days after the
 16 association's financial statements are filed with the association's
 17 domiciliary regulator, provide to the director an annual
 18 certification by the association's domiciliary regulator of the
 19 solvency of each underwriter member, or, if a certification is
 20 unavailable, financial statements prepared by independent public
 21 accountants of each underwriter member of the association;

22 (C) the director shall create and publish a list of qualified
 23 jurisdictions under which an assuming insurer licensed and domiciled in a
 24 qualifying jurisdiction is eligible to be considered for certification by the
 25 director as a certified reinsurer, subject to the following provisions:

26 (i) to determine whether the domiciliary jurisdiction
 27 of a an alien assuming insurer is eligible to be recognized as a
 28 qualified jurisdiction, the director shall evaluate the
 29 appropriateness and effectiveness of the reinsurance supervisory
 30 system of the jurisdiction, both initially and on an ongoing basis,
 31 and consider the rights, benefits, and the extent of reciprocal

1 recognition afforded by the jurisdiction to reinsurers licensed and
2 domiciled in the United States; a qualified jurisdiction shall agree
3 to share information and cooperate with the director with respect
4 to all certified reinsurers domiciled within that jurisdiction; the
5 director may not recognize a jurisdiction as a qualified jurisdiction
6 if the director determines that the jurisdiction does not adequately
7 and promptly enforce final United States judgments and
8 arbitration awards; the director may consider additional factors
9 when making an eligibility determination under this
10 subparagraph;

11 (ii) the director shall consider the list of qualified
12 jurisdictions published through the committee process of the
13 National Association of Insurance Commissioners; if the director
14 approves as qualified a jurisdiction that does not appear on the list
15 of qualified jurisdictions, the director shall provide thoroughly
16 documented justification for the approval under criteria set out in
17 regulations adopted by the director;

18 (iii) the director shall recognize a United States
19 jurisdiction that meets the requirement for accreditation under the
20 National Association of Insurance Commissioners financial
21 standards and accreditation program as a qualified jurisdiction;

22 (iv) the director, in lieu of revocation, may suspend a
23 reinsurer's certification indefinitely if the certified reinsurer's
24 domiciliary jurisdiction ceases to be a qualified jurisdiction;

25 (D) the director shall assign a rating to each certified
26 reinsurer, giving due consideration to the financial strength ratings that
27 have been assigned by rating agencies considered acceptable under
28 regulations adopted by the director;

29 (E) a certified reinsurer shall secure obligations assumed
30 from United States domiciled ceding insurers under this subsection at a
31 level consistent with the reinsurer's rating, as specified under regulations

1 adopted by the director and subject to the following requirements:

2 (i) for a domestic ceding insurer to qualify for full
3 financial statement credit for reinsurance ceded to a certified
4 reinsurer, the certified reinsurer shall maintain security in a form
5 acceptable to the director and consistent with (c) of this section or
6 in a multibeneficiary trust under (4) of this subsection, except as
7 otherwise provided in this paragraph;

8 (ii) if a certified reinsurer maintains a trust to secure
9 fully the reinsurer's obligations subject to (4) of this subsection and
10 chooses to secure its obligations incurred as a certified reinsurer in
11 the form of a multibeneficiary trust, the certified reinsurer shall
12 maintain separate trust accounts for its obligations incurred under
13 reinsurance agreements issued or renewed as a certified reinsurer
14 with reduced security as permitted under this subsection or
15 comparable laws of other United States jurisdictions and for its
16 obligations subject to (4) of this subsection; a certified reinsurer
17 shall, as a condition of the grant of certification under this
18 paragraph, bind itself, by the language of the trust and agreement
19 with the insurance supervisory official with principal regulatory
20 oversight of the trust account, to use the remaining surplus of a
21 terminated trust account for a deficiency in any other trust account
22 of the certified reinsurer;

23 (iii) the minimum trustee surplus requirements
24 under (4) of this subsection are not applicable to a multibeneficiary
25 trust maintained by a certified reinsurer for the purpose of
26 securing obligations incurred under this subsection, except that the
27 multibeneficiary trust shall maintain a minimum trustee surplus
28 of \$10,000,000;

29 (iv) if the obligations incurred by a certified
30 reinsurer under this subsection are insufficiently secured, the
31 director shall reduce the allowable credit by an amount

proportionate to the deficiency and may impose further reductions in allowable credit if the director finds that there is a material risk that the certified reinsurer's obligations will not be paid in full when due;

(v) for purposes of this subparagraph, a certified reinsurer whose certification is terminated for any reason is considered to be a certified reinsurer that is required to secure 100 percent of the reinsurer's obligations; however, if the director continues to assign a higher rating as permitted under other provisions of this section, the requirement to secure 100 percent of the reinsurer's obligations does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended; in this sub-subparagraph, "terminated" means revoked, suspended, voluntarily surrendered, or in inactive status;

(F) if an applicant for certification is certified as a reinsurer in a jurisdiction accredited by the National Association of Insurance Commissioners, the director may defer to that jurisdiction's certification and to the rating assigned to the applicant by the jurisdiction; the assuming insurer shall be considered to be a certified reinsurer in this state;

(G) a certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business; an inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the director shall assign a rating that takes into account, if relevant, the reasons the reinsurer is not assuming new business;

(6) [ASSUMING INSURER THAT] does not meet the requirements of (1) - (5) [(1) - (4)] of this subsection, but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

1 * **Sec. 2.** AS 21.12.020(b) is amended to read:

2 (b) If the assuming insurer is not licensed, [OR] accredited, or certified to
3 transact insurance or reinsurance in this state, the credit permitted under (a)(4) and
4 (5) [BY (a)(1) - (4)] of this section is [MAY] not [BE] allowed unless the assuming
5 insurer agrees in the reinsurance agreements

6 (1) that, in the event of the failure of the assuming insurer to perform
7 its obligations under the terms of the reinsurance agreement, the assuming insurer, at
8 the request of the ceding insurer, shall submit to the jurisdiction of a court of
9 competent jurisdiction in a [ANY] state of the United States, will comply with all
10 requirements necessary to give the court jurisdiction and will abide by the final
11 decision of the court or of an appellate court in the event of an appeal; [THIS
12 PROVISION IS NOT INTENDED TO CONFLICT WITH OR OVERRIDE THE
13 OBLIGATION OF THE PARTIES TO A REINSURANCE AGREEMENT TO
14 ARBITRATE THEIR DISPUTES, IF SUCH AN OBLIGATION IS CREATED IN
15 THE REINSURANCE AGREEMENT;] and

16 (2) to designate the director or an attorney resident in the United States
17 as its true and lawful attorney upon whom may be served lawful process in an action,
18 suit, or proceeding instituted by or on behalf of the ceding insurer; nothing in this
19 subsection is intended to conflict with or override the obligation of the parties to
20 a reinsurance agreement to arbitrate their disputes if such an obligation is
21 created in the reinsurance agreement.

22 * **Sec. 3.** AS 21.12.020(c) is amended to read:

23 (c) An asset or a [A] reduction from liability, for reinsurance ceded by a
24 domestic insurer to an assuming insurer not meeting the requirements of (a), (b), and
25 (i) - (l) [(a)] of this section, shall be allowed in an amount not exceeding the liabilities
26 carried by the ceding insurer. In addition, the director may adopt by regulation
27 under (m)(2) of this section specific additional requirements relating to the
28 valuation of assets or reserve credits, the amount and forms of security
29 supporting reinsurance arrangements described in (m)(2) of this section, and the
30 circumstances under which credit will be reduced or eliminated. The reduction
31 shall be equal to the amount of money held by or on behalf of the ceding insurer,

including money held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations under it, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or, in the case of a trust, held in a qualified United States financial institution. The security must be in the form of

(1) cash;

(2) securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those exempted from filing as defined by the purposes and procedures manual of the Securities Valuation Office, and those that qualify as admitted assets under AS 21.21;

(3) clean, irrevocable, unconditional letters of credit that contain an evergreen clause issued or confirmed by a qualified United States financial institution not later than December 31 in the year for which filing is made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of the ceding insurer's annual statement; letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever occurs first; in this paragraph, "qualified United States financial institution" means an institution that

(A) is organized or, in the case of a United States office of a foreign banking organization, is licensed under the laws of the United States or a state of the United States;

(B) is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(C) has been determined by either the director or the Securities Valuation Office of the National Association of Insurance Commissioners to meet the standards of financial condition and standing considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit are acceptable to the director; or

(4) other security acceptable to and approved in advance by the director.

* **Sec. 4.** AS 21.12.020(i) is amended to read:

(i) In this section, unless otherwise indicated,

(1) "qualified United States financial institution" means an institution that is

(A) organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or a state of the United States, and has been granted authority to operate with fiduciary powers; and

(B) regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies;

(2) [A] "reinsurance transaction" means a transaction stemming from a contract by which the assuming insurer agrees to indemnify the ceding insurer in whole or in part against liability or losses that the ceding insurer might incur under a separate contract of insurance with its insured.

* **Sec. 5.** AS 21.12.020 is amended by adding new subsections to read:

(j) If an assuming insurer does not meet the requirements under this section, the credit permitted under (a)(1), (2), or (3) of this section is not allowed unless the assuming insurer agrees, in the trust agreements, to the following conditions:

(1) notwithstanding any other provision in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required under (a)(4) or (5) of this section, or if the grantor of the trust is declared insolvent or is placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of the state or country of domicile, the trustee shall comply with an order of the insurance supervisory official with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the insurance supervisory official with regulatory oversight over the trust all of the assets of the trust fund;

(2) the assets shall be distributed by, and all claims shall be filed with

1 and valued by, the insurance supervisory official with regulatory oversight over the
 2 trust under the laws of the state in which the trust is domiciled that are applicable to
 3 the liquidation of a domestic insurer;

4 (3) if the insurance supervisory official with regulatory oversight over
 5 the trust determines that the assets or report of the assets of the trust fund are not
 6 necessary to satisfy the claims of the United States domestic ceding insurers of the
 7 grantor of the trust, the insurance supervisory official with regulatory oversight over
 8 the trust shall return the assets or part of the assets to the trustee for distribution under
 9 the trust agreement;

10 (4) the grantor of the trust shall waive any right otherwise available to
 11 it under United States law that is inconsistent with this subsection.

12 (k) The director may suspend or revoke a reinsurer's accreditation or
 13 certification under the following procedures if the accredited or certified reinsurer
 14 ceases to meet the requirements for accreditation or certification:

15 (1) the director shall give the reinsurer notice and opportunity for a
 16 hearing under AS 21.06.170 - 21.06.230; the suspension or revocation may not take
 17 effect before the director issues an order on the hearing, unless

18 (A) the reinsurer waives the right to a hearing;

19 (B) the director's order is based on a regulatory action by the
 20 reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of
 21 the reinsurer's eligibility to transact insurance or reinsurance business in its
 22 domiciliary jurisdiction or in the primary certifying state of the reinsurer under
 23 (a)(5)(F) of this section; or

24 (C) the director finds that an emergency requires immediate
 25 action and a court of competent jurisdiction has not stayed the director's action;

26 (2) while a reinsurer's accreditation or certification is suspended,
 27 reinsurance contract issued or renewed by the reinsurer on or after the effective date of
 28 the suspension does not qualify for credit, except to the extent that the reinsurer's
 29 obligations under the contract are secured under (c) of this section; if a reinsurer's
 30 accreditation or certification is revoked, no credit for reinsurance may be granted after
 31 the effective date of the revocation except to the extent that the reinsurer's obligations

1 under the contract are secured under (a)(5)(E) or (c) of this section.

2 (l) A ceding insurer shall take steps to

3 (1) manage its reinsurance recoverables proportionate to its own book
4 of business; a domestic ceding insurer shall notify the director not later than 30 days
5 after the reinsurance recoverables from any single assuming insurer or group of
6 affiliated assuming insurers exceeds 50 percent of the domestic ceding insurer's last
7 reported surplus to policyholders or the domestic ceding insurer determines that
8 reinsurance recoverables from any single assuming insurer or group of affiliated
9 assuming insurers is likely to exceed that limit; the notification must demonstrate that
10 the exposure is safely managed by the domestic ceding insurer; and

11 (2) diversify its reinsurance program; a domestic ceding insurer shall
12 notify the director not later than 30 days after ceding to any single assuming insurer or
13 group of affiliated assuming insurers more than 20 percent of the ceding insurer's
14 gross written premium in the preceding calendar year or the domestic ceding insurer
15 determines that the reinsurance ceded to any single assuming insurer or group of
16 affiliated assuming insurers is likely to exceed that limit; the notification must
17 demonstrate that the exposure is safely managed by the domestic ceding insurer.

18 (m) The director may adopt regulations

19 (1) to implement this section; and

20 (2) relating to reinsurance arrangements, subject to the following
21 provisions:

22 (A) a regulation adopted under this paragraph may apply only
23 to reinsurance relating to

24 (i) a life insurance policy with guaranteed nonlevel
25 gross premiums or guaranteed nonlevel benefits;

26 (ii) a universal life insurance policy with provisions
27 resulting in the ability of a policyholder to keep a policy in force over a
28 secondary guaranteed period;

29 (iii) a variable annuity with guaranteed death or living
30 benefits;

31 (iv) a long-term care insurance policy; or

(v) other life insurance, health insurance, and annuity products for which the National Association of Insurance Commissioners adopts model regulatory requirements with respect to credit for reinsurance;

(B) a regulation adopted under (A)(i) or (ii) of this paragraph applies to a treaty containing a policy issued (i) on or after January 1, 2015, and (ii) before January 1, 2015, if the risk pertaining to the policy is ceded, in whole or in part, in connection with the treaty on or after January 1, 2015; in this subparagraph, "treaty" means a contract in which a reinsurance company agrees to accept and an insurance company agrees to cede all of a particular type of risk within a specific class of insurance policies;

(C) the director may adopt a regulation under this paragraph to require a ceding insurer, in calculating the amounts or forms of security required to be held under regulations adopted under the authority of this paragraph, to use the edition of the valuation manual adopted by the National Association of Insurance Commissioners in effect on the date on which the calculation is made, to the extent applicable;

(D) a regulation adopted under this paragraph does not apply to cessions to an assuming insurer that is certified in this state or meets the following criteria:

(i) maintains at least \$250,000,000 in capital and surplus as determined under the most recent edition of the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, including the effect of any permitted or prescribed practices; and

(ii) is licensed in not fewer than 26 states, or licensed in not fewer than 10 states and licensed or accredited in a total of not fewer than 35 states;

(E) nothing in this paragraph limits the director's authority to adopt regulations under (1) of this subsection.

* **Sec. 6.** AS 21.18.110(a) is amended to read:

(a) The director shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies, [AND] annuity and pure endowment contracts, **and deposit-type contracts** of every life insurer doing business in this state **issued before the operative date of the valuation manual described in AS 21.18.112** [, AND MAY CERTIFY THE AMOUNT OF THE RESERVES, SPECIFYING THE MORTALITY TABLE OR TABLES, RATE OR RATES OF INTEREST, AND METHODS (NET LEVEL PREMIUM METHOD OR OTHER) USED IN THE CALCULATION OF THE RESERVES]. In calculating the reserves **for policies and contracts issued before the operative date of the valuation manual described in AS 21.18.112**, the director may use group methods and approximate averages for fractions of a year or otherwise. For an alien insurer, the valuation shall be limited to **the alien insurer's** [ITS] insurance transactions in the United States. For the purpose of making the valuation, the director may employ a **qualified** [COMPETENT] actuary who shall be paid by the insurer for which the service is rendered. For a foreign or alien insurer, the director may accept, in lieu of the valuation of the reserves required of a foreign or alien insurer, a valuation made, or caused to be made, by the insurance supervisory official of a state or other jurisdiction if the valuation complies with the minimum standard provided in this section. **This subsection provides for the minimum standard for the valuation of reserves for policies and contracts subject to this subsection and applies to a policy and contract issued before the operative date of the valuation manual described in AS 21.18.112** [AND IF THE OFFICIAL OF THE STATE OR JURISDICTION ACCEPTS AS SUFFICIENT AND VALID FOR ALL LEGAL PURPOSES THE CERTIFICATE OF VALUATION OF THE DIRECTOR WHEN THE CERTIFICATE STATES THE VALUATION WAS MADE IN A SPECIFIED MANNER IN WHICH THE AGGREGATE RESERVES WOULD BE AT LEAST AS LARGE AS IF THEY HAD BEEN COMPUTED IN THE MANNER PRESCRIBED BY THE LAW OF THAT STATE OR JURISDICTION]. An insurer that **has** [AT ANY TIME] adopted a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in this section may, with the approval of the director, adopt a lower standard of

valuation, but not lower than the minimum provided in this section.

* **Sec. 7.** AS 21.18.110(b) is amended to read:

(b) This subsection applies to only those policies and contracts issued on or after the operative date of AS 21.45.300 except as [OTHERWISE] provided in (c) - (k) [(c)] of this section, [AND] (5) and (6) of this subsection for group annuity and pure endowment contracts issued before that operative date, and AS 21.18.112(b):

(1) Except as [OTHERWISE] provided in (c) - (k) [(c)] of this section, [AND] (5) and (6) of this subsection, and AS 21.18.112(b), the minimum standard for the valuation of all these policies and contracts shall be the commissioners [COMMISSIONER'S] reserve evaluation methods defined in (2)(A) and (B) [(2)], (4), and (7) of this subsection, and AS 21.18.112(b), three and one-half percent interest, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1978, five and one-half percent interest for single premium life insurance policies and four and one-half percent interest for all other policies, and the following tables:

(A) for all ordinary policies of life insurance issued on the standard basis, excluding disability and accidental death benefits in the policies - the Commissioners [COMMISSIONER'S] 1958 Standard Ordinary Mortality Table, for policies issued before the operative date of AS 21.45.300(w), of the Standard Nonforfeiture Law for Life Insurance as amended, except that, for a category of policies issued on female risks, all modified net premiums and present values, referred to in (2) of this subsection may be calculated according to an age not more than six years younger than the actual age of the insured; and for policies issued on or after the operative date of AS 21.45.300(w) of the Standard Nonforfeiture Law for Life Insurance as amended

(i) the Commissioners [COMMISSIONER'S] 1980 Standard Ordinary Mortality Table; [, OR]

(ii) at the election of the insurer for any one or more specified plans of life insurance, the Commissioners [COMMISSIONER'S] 1980 Standard Ordinary Mortality Table with

1 10-year Select Mortality Factors; [,] or

2 (iii) any ordinary mortality table, adopted after 1980 by
3 the National Association of Insurance Commissioners, that is approved
4 by regulation **adopted** [PROMULGATED] by the director for use in
5 determining the minimum standard of valuation for the policies;

6 (B) for all industrial life insurance policies issued on the
7 standard basis, excluding disability and accidental death benefits in the policies
8 - the 1941 Standard Industrial Mortality Table for the policies issued before the
9 operative date of AS 21.45.300(I), of the Standard Nonforfeiture Law for Life
10 Insurance as amended, and for the policies issued on or after April 7, 1984, the
11 **Commissioners** [COMMISSIONER'S] 1961 Standard Industrial Mortality
12 Table or any industrial mortality table, adopted after 1980 by the National
13 Association of Insurance Commissioners that is approved by regulation
14 **adopted** [PROMULGATED] by the director for use in determining the
15 minimum standard of valuation for **those** [SUCH] policies;

16 (C) for individual annuity and pure endowment contracts,
17 excluding disability and accidental death benefits in the policies - the 1937
18 Standard Annuity Mortality Table, or, at the option of the insurer, the Annuity
19 Mortality Table for 1949, ultimate, or any modification of either of these tables
20 approved by the director;

21 (D) for group annuity and pure endowment contracts,
22 excluding disability and accidental death benefits in the policies - the Group
23 Annuity Mortality Table for 1951, any modification of the table approved by
24 the director, or, at the option of the insurer, any of the tables or modification of
25 tables specified for individual annuity and pure endowment contracts;

26 (E) for total and permanent disability benefits in or
27 supplementary to ordinary policies or contracts - the tables of period 2
28 disablement rates and the 1930 to 1950 termination rates of the 1952 disability
29 study of the society of actuaries, with due regard to the type of benefit or any
30 table of disablement and termination rates adopted after 1980 by the National
31 Association of Insurance Commissioners that are approved by regulation

1 adopted by the director for use in determining the minimum standard of
2 valuation for the policies; the table shall, for active lives, be combined with a
3 mortality table permitted for calculating the reserves for life insurance policies;

4 (F) for accidental death benefits in or supplementary to policies
5 - the 1959 Accidental Death Benefits Table or any accidental death benefits
6 table adopted after 1980 by the National Association of Insurance
7 Commissioners that is approved by regulation adopted by the director for use
8 in determining the minimum standard of valuation for the policies combined
9 with a mortality table permitted for calculating the reserves for life insurance
10 policies;

11 (G) for group life insurance, life insurance issued on the
12 substandard basis and other special benefits - tables approved by the director.

13 (2) Except as otherwise provided in (4) and (7) of this subsection,
14 reserves according to the commissioners [COMMISSIONER'S] reserve valuation
15 method, for the life insurance and endowment benefits of policies providing for a
16 uniform amount of insurance and requiring the payment of uniform premiums, shall be
17 the excess, if any, of the present value, at the date of valuation, of the future
18 guaranteed benefits provided for by the policies, over the then present value of any
19 future modified net premiums; the modified net premiums for the policy shall be the
20 uniform percentage of the respective contract premiums for the benefits that the
21 present value, at the date of issue of the policy, of all the modified net premiums shall
22 be equal to the sum of the then present value of the benefits provided for by the policy
23 and the excess of (A) over (B), as follows:

24 (A) a net level annual premium equal to the present value, at
25 the date of issue, of the benefits provided for after the first policy year, divided
26 by the present value, at the date of issue of an annuity of one a year payable on
27 the first and each subsequent anniversary of the policy on which a premium
28 falls due; however, the net level annual premium may not exceed the net level
29 annual premium on the 19-year premium whole life plan for insurance of the
30 same amount at an age one year higher than the age at issue of the policy;

31 (B) a net one-year term premium for the benefits provided for

1 in the first policy year; notwithstanding this paragraph, for a life insurance
 2 policy issued on or after January 1, 1987, for which the contract premium in
 3 the first policy year exceeds that of the second year and for which no
 4 comparable additional benefit is provided in the first year for the excess
 5 premium and that provides an endowment benefit or a cash surrender value or
 6 a combination of these in an amount greater than the excess premium, the
 7 reserve according to the commissioners [COMMISSIONER'S] reserve
 8 valuation method as of a policy anniversary occurring on or before the
 9 assumed ending date, except as otherwise provided in (4) of this subsection,
 10 shall be the greater of the reserve as of the policy anniversary calculated as
 11 described in (A) [(2)(A)] of this paragraph [SUBSECTION] and the reserve
 12 as of the policy anniversary; the reserve shall be calculated as described in (A)
 13 [(2)(A)] of this paragraph [SUBSECTION], except that

14 (i) the present value shall be reduced by 15 percent of
 15 the amount of the excess first year premium; [,]

16 (ii) all present values of benefits and premiums shall be
 17 determined without reference to premiums or benefits provided for by
 18 the policy after the assumed ending date; [,]

19 (iii) the policy shall be assumed to mature on the
 20 assumed ending date as an endowment; [,] and

21 (iv) the cash surrender value provided on the assumed
 22 date shall be considered as an endowment benefit; in making the
 23 comparison in this subparagraph, the mortality and interest bases stated
 24 in [PARAGRAPHS] (4) and (6) of this subsection and
 25 [SUBSECTION] (c) of this section shall be used; in this subparagraph,
 26 the assumed ending date is the first policy anniversary on which the
 27 sum of the endowment benefit and cash surrender value then available
 28 is greater than the excess premium;

29 (C) reserves according to the commissioners
 30 [COMMISSIONER'S] reserve valuation method for

31 (i) life insurance policies providing for a varying

1 amount of insurance or requiring the payment of varying premiums; [.]

2 (ii) group annuity and pure endowment contracts
3 purchased under a retirement plan or plan of deferred compensation,
4 established or maintained by an employer (including a partnership or
5 sole proprietorship) or by an employee organization, or by both, other
6 than a plan providing individual retirement accounts or individual
7 retirement annuities under 26 U.S.C. 408 (Internal Revenue Code), as
8 amended; [.]

9 (iii) disability and accidental death benefits in all
10 policies and contracts; [.]

11 (iv) all other benefits, except life insurance and
12 endowment benefits in life insurance policies and benefits provided by
13 all other annuity and pure endowment contracts, shall be calculated by
14 a method consistent with the principles of this paragraph [(2) OF
15 THIS SUBSECTION], except that any extra premiums charged
16 because of impairments or special hazards shall be disregarded in the
17 determination of modified net premiums. [;]

18 (3) Reserves for any category of policies, contracts, or benefits as
19 established by the director, may be calculated at the option of the insurer according to
20 standards that [WHICH] produce greater aggregate reserves for the category than
21 those calculated according to the minimum standard provided in this section, but the
22 rate or rates of interest used for policies and contracts, other than annuity and pure
23 endowment contracts, may not be higher than the corresponding rate or rates of
24 interest used in calculating nonforfeiture benefits provided for in the policy or
25 contract.

26 (4) If, in any contract year, the gross premium charged by a life insurer
27 on a policy or contract is less than the valuation net premium for the policy or contract
28 calculated by the method used in calculating the reserve on the policy or contract but
29 using the minimum valuation standards of mortality and rate of interest, the minimum
30 reserve required for that policy or contract shall be the greater of either the reserve
31 calculated according to the mortality table, rate of interest, and method actually used

for the policy or contract, or the reserve calculated by the method actually used for the policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. In this paragraph, the minimum valuation standards of mortality and rate of interest are those standards referred to in (b) and (c) of this section. Notwithstanding this paragraph, for a life insurance policy issued on or after January 1, 1987, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess premium and that provides an endowment benefit or a cash surrender value or a combination of these in an amount greater than the excess premium, the provisions of this paragraph shall be applied as if the method used in calculating the reserve for such a policy were based on a net one-year term premium for the benefits provided for in the first policy year. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated under (2)(B) of this subsection, and the minimum reserve calculated under this paragraph.

(5) Except as provided in (c) - (k) of this section [(C) OF THIS PARAGRAPH], the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph as set out in (6) of this subsection and for all annuities and pure endowments purchased on or after that date under group annuity and pure endowment contracts, shall be the commissioners [COMMISSIONER'S] reserve valuation methods defined in (2) and (7) of this subsection and the following tables and interest rates:

(A) for individual single premium immediate annuity contracts, excluding any disability and accidental death benefits in those [SUCH] contracts - the 1971 individual annuity mortality table or an individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation adopted by the director for use in determining the minimum standard of valuation for the contracts, or any modification of these tables approved by the director and seven and one-half percent interest;

1 (B) for individual annuity and pure endowment contracts, other
2 than single premium immediate annuity contracts, excluding any disability and
3 accidental death benefits in those [SUCH] contracts - the 1971 individual
4 annuity mortality table or an individual annuity mortality table, adopted after
5 1980 by the National Association of Insurance Commissioners, that is
6 approved by regulation adopted by the director for use in determining the
7 minimum standard of valuation for the contracts, or any modification of these
8 tables approved by the director and five and one-half percent interest for single
9 premium deferred annuity and pure endowment contracts and four and one-
10 half percent interest for all other comparable [SUCH] individual annuity and
11 pure endowment contracts;

12 (C) for all annuities and pure endowments purchased under
13 group annuity and pure endowment contracts, excluding any disability and
14 accidental death benefits purchased under such contracts - 1971 group annuity
15 mortality table or a group annuity mortality table, adopted after 1980 by the
16 National Association of Insurance Commissioners, that is approved by
17 regulation adopted by the director for use in determining the minimum
18 standard of valuation for the annuities and pure endowments, or any
19 modification of these tables approved by the director, and seven and one-half
20 percent interest.

21 (6) After July 1, 1978, an insurer may file with the director a written
22 notice of its election to comply with the provisions of (5) of this subsection after a
23 specified date before January 1, 1979, which shall be the operative date of that
24 requirement for the insurer; however, an insurer may elect a different operative date
25 for individual annuity and pure endowment contracts from that elected for group
26 annuity and pure endowment contracts. If an insurer makes no election, the operative
27 date of (5) of this subsection for the insurer is January 1, 1979.

28 (7) This paragraph applies to all annuity and pure endowment contracts
29 other than group annuity and pure endowment contracts purchased under a retirement
30 plan or plan of deferred compensation, established or maintained by an employer
31 (including a partnership or sole proprietorship) or by an employee organization, or by

both, other than a plan providing individual retirement annuities under 26 U.S.C. 408 (Internal Revenue Code), as amended. Reserves according to the commissioners [COMMISSIONER'S] annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in those contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by those contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of that [SUCH] contract, that become payable before the end of that respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in those [SUCH] contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of those contracts to determine nonforfeiture values.

* **Sec. 8.** AS 21.18.110(f) is amended to read:

(f) The weighting factors referred to in (c) of this section are as follows:

(1) weighting factors for life insurance:

Guarantee

Duration:	Weighting
Years	Factors
10 or less	.50
more than 10, but not more than 20;	.45
more than 20;	.35

for life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guarantee in the policy or under an option to convert to a plan of life insurance with a premium rate or nonforfeiture value or both that [WHICH] are guaranteed in the original policy;

(2) notwithstanding (3) of this subsection, the weighting factor for a single premium immediate annuity and for an annuity benefit involving a [IN] life contingency arising from another annuity with a cash settlement option and a

1 guaranteed interest contract with a cash settlement option - .80;

2 (3) for annuities and guaranteed interest contracts valued on an issue
3 year basis:

4 Guarantee	Weighting Factor		
5 Duration:	for Plan Type		
6 Years			

7		A	B	C
8 5 or less;	.80	.60	.50	
9 more than 5, but not				
10 more than 10;	.75	.60	.50	
11 more than 10, but not				
12 more than 20;	.65	.50	.45	
13 more than 20;	.45	.35	.35	

14 (4) for annuities and guaranteed interest contracts valued on a change
15 in fund basis, the weighting factors shown in (3) of this subsection are increased by
16 .15 for plan type A, .25 for plan type B, and .05 for plan type C;

17 (5) for annuities and guaranteed interest contracts valued on an issue
18 year basis, other than those with no cash settlement options, that [WHICH] do not
19 guarantee interest on considerations received more than one year after issue or
20 purchase and for annuities and guaranteed interest contracts valued on a change in
21 fund basis that [WHICH] do not guarantee interest rates on considerations received
22 more than 12 months beyond the valuation date, the weighting factors shown in (3) of
23 this subsection or derived in (4) of this subsection are increased by .05.

24 * **Sec. 9.** AS 21.18.110(j) is amended to read:

25 (j) The reference interest rates referred to in (d) and (e) [(c)] of this section
26 are as follows:

27 (1) for life insurance, the lesser of the average interest rate for a period
28 of 36 months and the average interest rate for a period of 12 months, ending on
29 June 30 of the calendar year next preceding the year of issue, of Moody's Corporate
30 Bond Yield Average - Monthly Average Corporates, as published by Moody's
31 Investors Service, Inc.;

(2) for a single premium immediate annuity and for an annuity benefit involving a life contingency arising from another annuity with a cash settlement option and a guaranteed interest contract with a cash settlement option, the average interest rate for a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(3) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as provided in (2) of this subsection, with a guarantee duration in excess of 10 years, the lesser of the average interest rate for a period of 36 months and the average interest rate for a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(4) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as provided in (2) of this subsection, with a guarantee duration of 10 years or less, the average interest rate for a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(5) for other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average interest rate for a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(6) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as provided in (2) of this subsection, the average interest rate for a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.

* **Sec. 10.** AS 21.18.110(q) is amended to read:

1 (q) A qualified actuary who submits an opinion under (m) of this section

2 (1) is not liable for damages to a person, other than the **insurer**
 3 [INSURANCE COMPANY] and the director, for an act, error, omission, decision, or
 4 conduct with respect to the actuary's opinion except in a case of fraud or wilful
 5 misconduct;

6 (2) is subject to disciplinary action by the director; and

7 (3) shall prepare a memorandum, in form and substance acceptable to
 8 the director, to support the actuarial opinion.

9 * **Sec. 11.** AS 21.18.110(s) is amended to read:

10 (s) A memorandum in support of an actuarial opinion and other supporting
 11 material provided by an insurer to the director is confidential and may not be made
 12 public by the director or another person and is not subject to a civil subpoena, except
 13 for the purpose of defending an action seeking damages from a person **because** [BY
 14 REASON] of an action required by this section. The memorandum or other material
 15 may be released by the director with the written consent of the insurer or to the
 16 American Academy of Actuaries upon a request stating that the memorandum or other
 17 material is required for the purpose of a disciplinary proceeding and setting out
 18 procedures satisfactory to the director for preserving the confidentiality of the
 19 memorandum or other material. Once a portion of the memorandum or other material
 20 is cited by the insurer in its marketing, is cited before a governmental agency other
 21 than a state insurance department, or is released by the **insurer** [COMPANY] to the
 22 news media, the remainder of the confidential memorandum or other material is no
 23 longer confidential.

24 * **Sec. 12.** AS 21.18.110(t) is amended to read:

25 (t) An insurer's aggregate reserves for

26 (1) all life insurance policies, excluding disability and accidental death
 27 benefits, issued on or after July 1, 1992, may not be less than the aggregate reserves
 28 calculated under (b)(2), (4), (7), and (l) of this section, and the mortality table and
 29 rates of interest used in calculating nonforfeiture benefits for the policies; and

30 (2) all policies, contracts, and benefits may not be less than the
 31 aggregate reserves determined by **an appointed** [A QUALIFIED] actuary to be

1 necessary to render the opinion required under (m) of this section.

2 * **Sec. 13.** AS 21.18.110 is amended by adding a new subsection to read:

3 (v) In this section, unless the context requires otherwise, "insurer" means an
4 entity that

5 (1) has written, issued, or reinsured life insurance contracts, accident
6 and health insurance contracts, or deposit-type contracts in this state and has at least
7 one of those policies in force or claim; or

8 (2) has written, issued, or reinsured life insurance contracts in any state
9 and is required to hold a certificate of authority to write life insurance, accident and
10 health insurance, or deposit-type contracts in this state.

11 * **Sec. 14.** AS 21.18 is amended by adding a new section to read:

12 **Sec. 21.18.112. Standard valuation for policies and contracts issued on or**
13 **after the operative date of the valuation manual.** (a) The director shall annually
14 value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all
15 outstanding life insurance contracts, annuity and pure endowment contracts, accident
16 and health contracts, and deposit-type contracts of every insurer issued on or after the
17 operative date of the valuation manual. In lieu of the valuation of the reserves required
18 of a foreign or alien insurer, the director may accept a valuation made, or caused to be
19 made, by the insurance supervisory official of any state or other jurisdiction when the
20 valuation complies with the minimum standard provided in this section.

21 (b) For accident and health insurance contracts issued on or after the operative
22 date of the valuation manual, the standard described in the valuation manual is the
23 minimum standard of valuation required under (a) of this section. For accident and
24 health insurance contracts issued before the operative date of the valuation manual, the
25 minimum standard of valuation is the standard required under AS 21.18.080 -
26 21.18.086.

27 (c) Every insurer with outstanding life insurance contracts, accident and health
28 insurance contracts, or deposit-type contracts in the state and subject to regulation by
29 the director shall annually submit to the director an opinion of the appointed actuary as
30 to whether the reserves and related actuarial items held in support of a policy or
31 contract are computed appropriately, are based on assumptions that satisfy contractual

provisions, are consistent with prior reported amounts, and comply with the applicable laws of the state. The valuation manual must prescribe the specifics of this opinion, including any items considered to be necessary to its scope, as follows:

(1) the actuarial opinion must

(A) be in form and substance as specified in the valuation manual and acceptable to the director;

(B) be submitted with the annual statement reflecting the valuation of the reserve liabilities on or after the operative date of the valuation manual;

(C) apply to policies and contracts subject to this section, plus other actuarial liabilities specified in the valuation manual;

(D) be based on standards adopted by the Actuarial Standards Board or its successor and on additional standards prescribed in the valuation manual; and

(E) include, unless exempted in the valuation manual, an assessment of whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by an insurer with respect to the reserves and related actuarial items, including investment earnings on the assets and considerations anticipated to be received and retained under policies and contracts, adequately provide for an insurer's obligations under policies or contracts, including the benefits under and expenses associated with the policies or contracts;

(2) in the case of an actuarial opinion submitted by a foreign or alien insurer, the director may accept an opinion filed by the insurer with the insurance supervisory official of another state that is accredited by the National Association of Insurance Commissioners if the director determines that the opinion meets the requirements applicable to an insurer domiciled in the state;

(3) an appointed actuary who submits an opinion under this subsection

(A) is not liable for damages to a person, other than the insurer and the director, for an act, an error, an omission, a decision, or conduct with

1 respect to the appointed actuary's opinion, except in the case of fraud or wilful
2 misconduct;

3 (B) is subject to disciplinary action by the director against the
4 appointed actuary or the insurer; and

5 (C) shall prepare a memorandum, in form and substance
6 acceptable to the director, to support the actuarial opinion;

7 (4) if an insurer fails to provide a supporting memorandum as
8 requested by the director within a period specified in the valuation manual or the
9 director determines that the supporting memorandum fails to meet the standards
10 adopted by the valuation manual or is otherwise unacceptable to the director, the
11 director may engage a qualified actuary, at the expense of the insurer, to review the
12 opinion and the basis for the opinion and to prepare a supporting memorandum as
13 required under (c)(3)(C) of this subsection.

14 (d) Except as provided under (4) or (6) of this subsection, for policies and
15 contracts issued on or after the operative date of the valuation manual, the standard
16 prescribed in the valuation manual is the minimum standard of valuation required
17 under (a) of this section, as follows:

18 (1) the operative date of the valuation manual is January 1 following
19 the effective date of this section;

20 (2) unless a change in the valuation manual specifies a later effective
21 date, changes to the valuation manual are effective on January 1 following the date
22 when the change to the valuation manual has been adopted by the National
23 Association of Insurance Commissioners by an affirmative vote representing

24 (A) at least three-fourths of the members of the National
25 Association of Insurance Commissioners voting, but not less than a majority of
26 the total membership; and

27 (B) members of the National Association of Insurance
28 Commissioners representing jurisdictions totaling greater than 75 percent of
29 the direct premiums written as reported in the following annual statements
30 most recently available before the vote in this paragraph: life, accident and
31 health annual statements, health annual statements, or fraternal annual

1 statements;

2 (3) the valuation manual must specify all of the following:

3 (A) minimum valuation standards for and definitions of the
4 policies or contracts subject to (a) of this section; the minimum valuation
5 standards are

6 (i) the commissioners reserve valuation method for life
7 insurance policies and contracts, other than annuity contracts, subject to
8 (a) of this section;

9 (ii) the commissioners annuity reserve valuation method
10 for annuity contracts subject to (a) of this section; and

11 (iii) minimum reserves for all other policies or contracts
12 subject to (a) of this section;

13 (B) which policies or contracts or types of policies or contracts
14 that are subject to the requirements of a principle-based valuation in (e) of this
15 section and the minimum valuation standards consistent with those
16 requirements;

17 (C) for policies and contracts subject to a principle-based
18 valuation under (e) of this section,

19 (i) requirements for the format of reports to the director
20 under (e)(5)(C) of this section that include information necessary to
21 determine whether the valuation is appropriate and in compliance with
22 this section;

23 (ii) assumptions for risks over which the insurer does
24 not have significant control or influence;

25 (iii) procedures for corporate governance and oversight
26 of the actuarial function and a process for appropriate waiver or
27 modification of the procedures;

28 (D) for policies and contracts not subject to a principle-based
29 valuation under (e) of this section, the minimum valuation standard

30 (i) must be consistent with the minimum standard of
31 valuation in AS 21.18.110; or

(ii) if there is no applicable minimum standard in AS 21.18.110, must develop reserves that quantify the benefits, guarantees, and funding associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring;

(E) other requirements, including those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of insurer experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules and internal controls; and

(F) the data and form of the data required under (f) of this section, directions for submitting the data, and other requirements, including data analyses and reporting of analyses;

(4) in the absence of a specific valuation requirement or if the director determines that a specific valuation requirement in the valuation manual is not in compliance with this section, the insurer shall, with respect to those requirements, comply with minimum valuation standards in AS 21.18.110;

(5) the director may engage a qualified actuary, at the expense of the insurer, to perform an actuarial examination of the insurer, to determine the appropriateness of a reserve assumption or method used by the insurer, or to review and determine an insurer's compliance with a requirement of this section; the director may rely on the opinion of a qualified actuary engaged by the director of another state, district, or territory of the United States regarding provisions contained in this section; in this paragraph, "engage" includes employ and contract;

(6) the director may require an insurer to change an assumption or method if the director determines the change is necessary to comply with the requirements of the valuation manual or this section, and the insurer shall adjust the reserves as required by the director.

(e) An insurer shall establish reserves using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:

(1) quantify the benefits, guarantees, and funding associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts and for policies or contracts with significant tail risk, that reflect conditions appropriately adverse to quantify the tail risk;

(2) incorporate assumptions, risk analysis methods, and financial models and management techniques that are consistent with, but not necessarily identical to, those used in the insurer's overall risk assessment process while recognizing potential differences in financial reporting structures and prescribed assumptions or methods;

(3) incorporate assumptions that are derived in one of the following manners:

(A) the assumptions are prescribed in the valuation manual;

(B) for assumptions that are not prescribed, the assumptions shall be established using the insurer's available experience, to the extent it is relevant and statistically credible; to the extent that data is not available, relevant, or statistically credible, the assumptions shall be established using other relevant or statistically credible experience;

(4) provide margins for uncertainty, including adverse deviation and estimation error, so that the greater the uncertainty the larger the margin and resulting reserve;

(5) for an insurer using a principle-based valuation for one or more policies or contracts subject to this subsection as specified in the valuation manual,

(A) establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual;

(B) provide to the director an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation; the controls shall be designed to ensure that all material risks inherent in the liabilities and associated assets subject to the valuation are included in the valuation and that valuations are made in accordance with the

1 valuation manual; the certification shall be based on the controls in place as of
2 the end of the preceding calendar year;

3 (C) develop and file with the director upon request a principle-
4 based valuation report that complies with standards prescribed in the valuation
5 manual;

6 (6) a principle-based valuation may include a prescribed formulaic
7 reserve component.

8 (f) An insurer shall submit mortality, morbidity, policyholder behavior, or
9 expense experience and other data as prescribed in the valuation manual.

10 (g) The use of information in this section is subject to the following
11 provisions:

12 (1) except as provided in this subsection, an insurer's confidential
13 information is not a public record under AS 40.25.100 - 40.25.295, except that, the
14 director may use the confidential information in any regulatory or legal action brought
15 against the insurer as a part of the director's official duties;

16 (2) the director or another person who received confidential
17 information while acting under the authority of the director is not permitted or
18 required to testify in any private civil action concerning the confidential information;

19 (3) to assist in the performance of the director's duties, the director
20 may share confidential information

21 (A) with other state, federal, and international regulatory
22 agencies and with the National Association of Insurance Commissioners and
23 its affiliates and subsidiaries; and

24 (B) in the case of confidential information specified in (i)(1)(A)
25 and (4) of this section, with the Actuarial Board for Counseling and Discipline
26 or its successor upon request stating that the confidential information is
27 required for the purpose of professional disciplinary proceedings and with
28 state, federal, and international law enforcement officials;

29 (C) under (A) and (B) of this paragraph only if the recipient
30 agrees and has the legal authority to agree to maintain the confidentiality and
31 privileged status of the documents, materials, data, and other information in the

1 same manner and to the same extent required for the director;

2 (4) the director may receive documents, materials, data, and other
3 information, including otherwise confidential and privileged documents, materials,
4 data, or information from the National Association of Insurance Commissioners and
5 its affiliates and subsidiaries, from regulatory or law enforcement officials of other
6 foreign or domestic jurisdictions, and from the Actuarial Board for Counseling and
7 Discipline or its successor and shall maintain as confidential or privileged any
8 document, material, data, or other information received with notice or the
9 understanding that the document material, data, or information is confidential or
10 privileged under the laws of the jurisdiction that is the source of the document,
11 material, data, or other information;

12 (5) the director may enter into agreements governing the sharing and
13 use of information consistent with this section;

14 (6) a disclosure to the director under this section or sharing
15 confidential information as authorized in (3) of this subsection does not constitute a
16 waiver of a claim of confidentiality.

17 (h) Notwithstanding (g) of this section, confidential information specified in
18 (i)(1)(A) and (D) of this section

19 (1) may be subject to subpoena for the purpose of defending an action
20 seeking damages from the appointed actuary submitting the related memorandum in
21 support of an opinion submitted under (c) of this section or principle-based valuation
22 report developed under (e)(5)(C) of this section because of an action required by this
23 section or by regulations adopted under this section;

24 (2) may otherwise be released by the director with the written consent
25 of the insurer; and

26 (3) is not confidential after any portion of a memorandum in support of
27 an opinion submitted under (c) of this section or a principle-based valuation report
28 developed under (e)(5)(C) of this section is cited by the insurer in its marketing or is
29 publicly volunteered to or before a governmental agency other than a state insurance
30 department or is released by the insurer to the news media.

31 (i) In this section,

1 (1) "confidential information" means

2 (A) a memorandum in support of an opinion submitted under
3 (c) of this section and documents, materials, and other information, including
4 working papers and copies of them, created, produced, or obtained by or
5 disclosed to the director or another person in connection with the
6 memorandum;

7 (B) documents, materials, and other information, including
8 working papers and copies of them, created, produced, or obtained by or
9 disclosed to the director or another person in the course of an examination
10 made under (d)(5) of this section; however, if an examination report or other
11 material prepared in connection with an examination made under
12 AS 21.06.120 - 21.06.150 is not held as private and confidential information
13 under AS 21.06.120 - 21.06.150, an examination report or other material
14 prepared in connection with an examination made under (d)(5) of this section
15 is not confidential information to the same extent as if the examination report
16 or other material had been prepared under AS 21.06.120 - 21.06.150;

17 (C) reports, documents, materials, and other information
18 developed by an insurer in support of or in connection with an annual
19 certification by the insurer under (e)(5)(B) of this section evaluating the
20 effectiveness of the insurer's internal controls with respect to a principle-based
21 valuation and other documents, materials, and other information, including
22 working papers and copies of them, created, produced, or obtained by or
23 disclosed to the director or another person in connection with the reports,
24 documents, materials, and other information;

25 (D) a principle-based valuation report developed under
26 (e)(5)(C) of this section and other documents, materials, and other information,
27 including working papers and copies of them, created, produced, or obtained
28 by or disclosed to the director or another person in connection with the report;
29 and

30 (E) documents, materials, data, and other information
31 submitted by an insurer under (f) of this section, known as experience data and

1 experience materials, other documents, materials, data, and other information,
 2 including working papers and copies of them, created or produced in
 3 connection with the experience data, or documents, materials, data, or other
 4 information that includes any potentially insurer-identifying or personally
 5 identifiable information that is provided to or obtained by the director together
 6 with experience data, experience materials, and other documents, materials,
 7 data, and other information, including working papers and copies of them,
 8 created, produced, or obtained by or disclosed to the director or another person
 9 in connection with the experience materials;

10 (2) "law enforcement agency," "National Association of Insurance
 11 Commissioners," and "regulatory agency," includes an employee, agent, consultant, or
 12 contractor of the law enforcement agency, National Association of Insurance
 13 Commissioners, or regulatory agency.

14 * **Sec. 15.** AS 21.18.900 is amended by adding new paragraphs to read:

15 (8) "accident and health insurance" means a contract that incorporates
 16 morbidity risk and provides protection against economic loss resulting from accident,
 17 sickness, or a medical condition or a contract as may be specified in the valuation
 18 manual;

19 (9) "appointed actuary" means a qualified actuary who is appointed in
 20 accordance with the valuation manual to prepare the actuarial opinion required in
 21 AS 21.18.112;

22 (10) "deposit-type contract" means a contract that does not incorporate
 23 mortality or morbidity risks or a contract specified in the valuation manual;

24 (11) "insurer" means an entity that has written, issued, or reinsured life
 25 insurance contracts, accident and health insurance contracts, or deposit-type contracts
 26 in

27 (A) this state and has at least one of those policies in force or
 28 on claim; or

29 (B) another state and is required to hold a certificate of
 30 authority to write life insurance, accident and health insurance, or deposit type
 31 contracts in this state;

(12) "life insurance" means a contract that incorporates mortality risk, including an annuity and pure endowment contract, or a contract specified in the valuation manual;

(13) "policyholder behavior" means an action of a policyholder, contract holder, or another person with the right to elect options;

(14) "principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer under AS 21.18.112(e), as specified in the valuation manual;

(15) "qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the qualification standards of the American Academy of Actuaries and who meets the requirements specified in the valuation manual;

(16) "tail risk" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or when there are observed events of very significant size or magnitude;

(17) "valuation manual" means the manual of valuation instructions adopted by the National Association of Insurance Commissioners as specified in AS 21.18.112(d)(1)(A).

* **Sec. 16.** AS 21.45.300(t) is amended to read:

(t) The adjusted premiums and present values for a policy of ordinary insurance referred to in this section shall be calculated on the basis of the Commissioners [COMMISSIONER'S] 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors. The adjusted premiums and present values for a policy of industrial insurance shall be calculated on the basis of the Commissioners [COMMISSIONER'S] 1961 Standard Industrial Mortality Table. The adjusted premiums and present values for a policy issued in a particular calendar year shall be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection for policies issued in that calendar year. However, [PROVIDED, HOWEVER, THAT]

(1) at the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year;

(2) under a paid-up nonforfeiture benefit, including a paid-up dividend addition, a cash surrender value available, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of the paid-up nonforfeiture benefit and paid-up dividend additions, if any;

(3) an insurer may calculate the amount of a guaranteed paid-up nonforfeiture benefit, including any paid-up addition under the policy, on the basis of an interest rate **not** [NO] less than that specified in the policy for calculating cash surrender values;

(4) in calculating the present value of paid-up term insurance with accompanying pure endowment, if any, offered as nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the **Commissioners** [COMMISSIONER'S] Extended Term Insurance Table for policies of ordinary insurance and not more than the **Commissioners** [COMMISSIONER'S] 1961 Industrial Extended Term Insurance Table for policies of industrial insurance;

(5) for insurance issued on a substandard basis, the calculations of adjusted premiums and present values may be based on appropriate modifications mentioned above;

(6) **for policies issued before the operative date of the valuation manual, a Commissioners Standard Ordinary Mortality Table** [AN ORDINARY MORTALITY TABLE], adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation adopted by the director for use in determining the minimum nonforfeiture standard may be substituted for the **Commissioners** [COMMISSIONER'S] 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the **Commissioners** [COMMISSIONER'S] 1980 Extended Term Insurance Table; **for policies issued on or after the operative date of the valuation manual, the valuation manual must provide the Commissioners Standard Ordinary Mortality Table for use in**

determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without the Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table; if the director approves by regulation a Commissioners Standard Ordinary Mortality Table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, that minimum nonforfeiture standard supersedes the minimum nonforfeiture provided by the valuation manual;

(7) for policies issued before the operative date of the valuation manual, a Commissioners Standard Industrial Mortality Table [AN INDUSTRIAL MORTALITY TABLE], adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation adopted by the director for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners [COMMISSIONER'S] 1961 Standard Industrial Mortality Table or the Commissioners [COMMISSIONER'S] 1961 Industrial Extended Term Insurance Table; for policies issued on or after the operative date of the valuation manual, the valuation manual must provide the Commissioners Standard Ordinary Mortality Table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Extended Term Insurance Table; if the director approves by regulation a Commissioners Standard Industrial Mortality Table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, that minimum nonforfeiture standard supersedes the minimum nonforfeiture provided by the valuation manual. [THIS SUBSECTION APPLIES TO ALL POLICIES ISSUED AFTER THE OPERATIVE DATE OF (w) OF THIS SECTION.]

* Sec. 17. AS 21.45.300(u) is amended to read:

(u) For a policy issued before the operative date of the valuation manual,

1 **the** [THE] nonforfeiture **annual** interest rate [A YEAR] for a policy issued in a
 2 particular calendar year shall be equal to 125 percent of the calendar year statutory
 3 valuation interest rate for the policy as defined in the Standard Valuation Law,
 4 rounded to the nearer one quarter of one percent, **if the nonforfeiture interest rate is**
 5 **not less than four percent; for a policy issued on or after the operative date of the**
 6 **valuation manual, the nonforfeiture annual interest rate for a policy issued in a**
 7 **particular calendar year is provided by the valuation manual.** [THIS
 8 SUBSECTION APPLIES TO ALL POLICIES ISSUED AFTER THE OPERATIVE
 9 DATE OF (w) OF THIS SECTION.]

10 * **Sec. 18.** AS 21.45.300 is amended by adding a new subsection to read:

11 (dd) In this section, "operative date of the valuation manual" means the
 12 January 1 of the first calendar year that the valuation manual described in
 13 AS 21.18.112 is effective.

14 * **Sec. 19.** AS 21.12.020(d), 21.12.020(e), 21.12.020(f), 21.12.020(g), and 21.12.020(h) are
 15 repealed.

16 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to
 17 read:

18 TRANSITION: REGULATIONS. The director of insurance in the Department of
 19 Commerce, Community, and Economic Development may adopt regulations necessary to
 20 implement the changes made by this Act. The regulations take effect under AS 44.62
 21 (Administrative Procedure Act), but not before the effective date of the law implemented by
 22 the regulation.

23 * **Sec. 21.** This Act takes effect immediately under AS 01.10.070(c).