



ALASKA STATE LEGISLATURE

HOUSE LABOR & COMMERCE COMMITTEE

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Rep. Lindsey Holmes	Rep. Bob Buch

Sponsor Statement

CS House Bill 175 (L&C) - Insurance

CSHB 175(L&C) contains miscellaneous updates to Alaska's insurance code. It will streamline some processes of the division, provide clarity to certain statutory provisions and bring certain statutes into greater uniformity with national standards.

The bill clarifies how the deposits of both domestic and foreign insurance companies will be treated under delinquency proceedings. It allows the director to do a summary suspension of a license in the event of an emergency for public protection and clarifies that rewards under wellness programs in health insurance programs do not constitute rebating.

I urge support for HB 175 to enable the division of insurance to continue to provide effective oversight of the insurance industry.

CS FOR HOUSE BILL NO. 175(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/1/09

Referred: Finance

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to insurance, including treating as confidential certain information
2 submitted to the director of insurance by the National Association of Insurance
3 Commissioners; clarifying conditions for the release of insurer deposits; defining travel
4 insurance that may be sold under a travel insurance limited producer license;
5 establishing criteria for licensing of nonresident independent adjusters as resident
6 adjusters; exempting rewards under a wellness program from treatment as insurance
7 discrimination or rebating; making certain insurance required of the Comprehensive
8 Health Insurance Association permissive rather than mandatory; making certain
9 provisions relating to statements on applications and guaranteed renewability for
10 individual health insurance applicable to hospital and medical service corporations;
11 making public certain forms and related documents filed for approval by a hospital or
12 medical service corporation after the filing becomes effective; relating to deposits of self-

1 funded multiple employer welfare arrangements; repealing reasons that the director of
 2 insurance may use to deny or revoke a license; and providing for an effective date."

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

4 * **Section 1.** AS 21.06.060(f) is amended to read:

5 (f) The following information or records submitted to or obtained by the
 6 director are confidential:

7 (1) personally identifiable consumer information; however, the director
 8 may disclose the information or records for the purpose of attempting to resolve a
 9 consumer complaint;

10 (2) information or records established by a showing satisfactory to the
 11 director to be a trade secret or proprietary business information, including

12 (A) detailed health insurance claim cost data; and

13 (B) justification for usual, customary, and reasonable charge
 14 determinations;

15 (3) information or records provided by a person not subject to this title
 16 at the request of the director if the information or records are identified as confidential
 17 by the director; and

18 (4) [FINANCIAL] analysis ratios and examination synopses
 19 concerning insurance companies that are submitted to the director by the National
 20 Association of Insurance Commissioners.

21 * **Sec. 2.** AS 21.06.180(b) is amended to read:

22 (b) The office of administrative hearings (AS 44.64.010) shall conduct a
 23 hearing on behalf of the director if required under AS 44.64.030. Otherwise, the
 24 director shall conduct a hearing if required by a provision of this title, or upon written
 25 demand to the director by a person aggrieved by an act, threatened act, or failure of the
 26 director to act, or by a report, regulation, or order of the director (other than an order
 27 for the holding of a hearing, or an order on hearing or under it). A demand must
 28 specify the grounds to be relied upon at the hearing as a basis for the relief. Except as
 29 provided under AS 21.27.420(d), unless [UNLESS] postponed by mutual consent or
 30 for good cause shown, the hearing shall be held within 30 days after receipt by the

1 director of the written demand.

2 * **Sec. 3.** AS 21.06.180(c) is amended to read:

3 (c) **Except as provided under AS 21.27.420(d), if,** [IF] within the 30-day
4 period, the director does not either (1) grant the hearing, or (2) issue an order refusing
5 the hearing, as to the previous report, regulation, or order as to which the person so
6 claims to be aggrieved, the hearing shall be considered to have been refused.

7 * **Sec. 4.** AS 21.06.190(a) is amended to read:

8 (a) **Except as provided in AS 21.27.420(d), a** [A] demand for a hearing
9 received by the director before the effective date of an order issued or within 10 days
10 after an order is delivered stays the effectiveness of the order pending the hearing and
11 an order made thereon, except as to action taken or proposed under an order

12 (1) on hearing;

13 (2) under and supplemental to an order on hearing; or

14 (3) based upon impairment of assets or unsound financial condition of
15 an insurer.

16 * **Sec. 5.** AS 21.24.130(d) is amended to read:

17 (d) If **a domestic** [THE] insurer is subject to delinquency proceedings **under**
18 [AS DEFINED IN] AS 21.78, [UPON THE ORDER OF A COURT OF
19 COMPETENT JURISDICTION,] the director shall yield the assets and securities held
20 on deposit under AS 21.09.090(b) to the receiver, conservator, rehabilitator, or
21 liquidator of the **domestic** insurer [, OR TO ANY OTHER PROPERLY
22 DESIGNATED OFFICIAL OR OFFICIALS WHO SUCCEED TO THE
23 MANAGEMENT AND CONTROL OF THE INSURER'S ASSETS]. The director
24 may release the deposit directly to the guaranty fund of which the insurer is a member
25 if the right to receive all or a portion of the deposit is assigned to the guaranty fund.

26 * **Sec. 6.** AS 21.24.130(f) is amended to read:

27 (f) If **a foreign** [AN] insurer **that is a member of the Alaska Life and**
28 **Health Insurance Guaranty Association (AS 21.79) or the Alaska Insurance**
29 **Guaranty Association (AS 21.80)** is found to be insolvent by a proceeding under
30 AS 21.78 or by a court of competent jurisdiction in another state, the director shall
31 take control of the insurer's deposit made under AS 21.09.090(b). The deposit assets

1 shall be released [, AT THE DISCRETION OF THE DIRECTOR,] to the applicable
 2 guaranty association upon a showing to the director that the association paid
 3 [ALASKA INSURANCE GUARANTY ASSOCIATION (AS 21.80) TO
 4 REIMBURSE FOR] a valid loss, [AND] loss expense, or contractual obligation
 5 [CLAIM PAYMENT MADE BY THE ASSOCIATION] that is within the purpose of
 6 the deposit. After the director determines that all losses, loss expense liabilities, or
 7 contractual obligations that were incurred on the insurer's policies written in this
 8 state for which the deposit was required have been paid, the [THE] director shall
 9 pay the remaining deposit assets to the receiver, conservator, rehabilitator, or
 10 liquidator of the insurer, or to another properly designated official who succeeds to the
 11 management and control of the insurer's assets [, AFTER THE DIRECTOR
 12 DETERMINES THAT ALL LOSS AND LOSS EXPENSE LIABILITIES HAVE
 13 BEEN PAID THAT WERE INCURRED ON THE INSURER'S POLICIES
 14 WRITTEN IN THIS STATE FOR WHICH THE DEPOSIT WAS REQUIRED].

15 * **Sec. 7.** AS 21.24.130 is amended by adding a new subsection to read:

16 (g) If an insurer is not a member of the Alaska Life and Health Guaranty
 17 Association established by AS 21.79 or the Alaska Insurance Guaranty Association
 18 established by AS 21.80, the director shall take control of the insurer's deposit made
 19 under AS 21.09.090(b) if the insurer is found to be insolvent by a proceeding under
 20 AS 21.78 or by a court of competent jurisdiction in another state. The director shall
 21 release the deposit assets to the receiver, conservator, rehabilitator, or liquidator of the
 22 insurer, or to any other properly designated official who succeeds to the management
 23 and control of the insurer's assets.

24 * **Sec. 8.** AS 21.27.140(b) is amended to read:

25 (b) A firm may not be licensed as an insurance producer, managing general
 26 agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus
 27 lines broker, or independent adjuster, or transact insurance unless each individual
 28 employed as an insurance producer, managing general agent, surplus lines broker,
 29 trainee independent adjuster, or independent adjuster by the firm is licensed as an
 30 individual in the firm. [EACH COMPLIANCE OFFICER OF THE FIRM SHALL BE
 31 LICENSED AS AN INDIVIDUAL IN THE FIRM FOR A SPECIFIC LINE AND

1 CLASS OF AUTHORITY. IF THERE IS MORE THAN ONE COMPLIANCE
 2 OFFICER, THE COMBINED AUTHORITY OF ALL COMPLIANCE OFFICERS
 3 SHALL COVER ALL THE POWERS CONFERRED BY THE FIRM'S LICENSE.]

4 * Sec. 9. AS 21.27.150(a) is amended to read:

5 (a) The director may issue a

6 (1) travel insurance limited producer license to a person who is
 7 appointed under AS 21.27.100 and who sells insurance connected with
 8 transportation provided by a common carrier, and limited to a specific trip, that
 9 covers

10 (A) trip cancellation;

11 (B) trip interruption; or

12 (C) life, health, disability, or personal effects

13 [TRANSPORTATION TICKETS OF A COMMON CARRIER OF PERSONS
 14 OR PROPERTY, WHO IS APPOINTED UNDER AS 21.27.100 FOR
 15 TRANSPORTATION TICKET POLICIES OF HEALTH INSURANCE,
 16 BAGGAGE INSURANCE ON PERSONAL EFFECTS, AND TRIP
 17 CANCELLATION OR TRIP INTERRUPTION INSURANCE];

18 (2) title insurance limited producer license to a person whose place of
 19 business is located in this state and whose sole purpose is to be appointed by and act
 20 on behalf of a title insurer;

21 (3) bail bond limited producer license to a person who is appointed by
 22 and acts on behalf of a surety insurer pertaining to bail bonds;

23 (4) motor vehicle rental agency limited producer license to a person
 24 and, subject to the approval of the director, to employees of the person licensed that
 25 the licensee authorizes to transact the business of insurance on the licensee's behalf if,
 26 as to an employee, the licensee complies with (D) of this paragraph and if the licensee

27 (A) rents to others, without operators,

28 (i) private passenger motor vehicles, including
 29 passenger vans, minivans, and sport utility vehicles; or

30 (ii) cargo motor vehicles, including cargo vans, pickup
 31 trucks, and trucks with a gross vehicle weight of less than 26,000

1 pounds that do not require the operator to possess a commercial driver's
2 license;

3 (B) rents motor vehicles only to persons under rental
4 agreements that do not exceed a term of 90 days;

5 (C) transacts only the following kinds of insurance:

6 (i) motor vehicle liability insurance with respect to
7 liability arising out of the use of a vehicle rented from the licensee
8 during the term of the rental agreement;

9 (ii) uninsured or underinsured motorist coverage, with
10 minimum limits described in AS 21.89.020(c) and (d) arising from
11 [OUT OF] the use of a vehicle rented from the licensee during the term
12 of the rental agreement;

13 (iii) insurance against medical, hospital, surgical, and
14 disability benefits to an injured person and funeral and death benefits to
15 dependents, beneficiaries, or personal representatives of a deceased
16 person if the insurance is issued as incidental coverage with or
17 supplemental to liability insurance and arises out of the use of a vehicle
18 rented from the licensee during the term of the rental agreement;

19 (iv) personal effects insurance, including loss of use,
20 with respect to damage to or loss of personal property of a person
21 renting the vehicle and other vehicle occupants while that property is
22 being loaded into, transported by, or unloaded from a vehicle rented
23 from the licensee during the term of the rental agreement;

24 (v) towing and roadside assistance with respect to
25 vehicles rented from the licensee during the term of the rental
26 agreement; and

27 (vi) other insurance as may be authorized by regulation
28 by the director;

29 (D) notifies the director in writing, within 30 days of
30 employment, of the name, date of birth, social security number, location of
31 employment, and home address of an employee authorized by the licensee to

transact insurance on the licensee's behalf; and

(E) provides other information as required by the director;

(5) nonresident limited producer license to a person; a license that the director issues under this paragraph grants the same scope of authority as a limited lines producer license issued to the person by the person's home state;

(6) credit insurance limited producer license to a person who sells limited lines credit insurance;

(7) miscellaneous limited producer license to a person who transacts insurance in this state that restricts the person's authority to less than the total authority for a line of authority described in AS 21.27.115(1) - (6), (8), and (9).

* **Sec. 10.** AS 21.27.270(b) is amended to read:

(b) Unless the director denies or refuses to renew a license under AS 21.27.410, the director shall issue a nonresident producer, limited lines, **independent adjuster**, surplus lines broker, managing general agent, reinsurance intermediary broker, or reinsurance intermediary manager license to a person who is not a resident of this state if

(1) the person is currently licensed and is in good standing in the person's home state; the director may verify the person's licensing status through the producer licensing database records maintained by the National Association of Insurance Commissioners or its affiliates or subsidiaries **or, if an independent adjuster's home state does not license independent adjusters, the independent adjuster qualifies under AS 21.27.020;**

(2) the person has paid the fees required under AS 21.06.250 and has submitted to the director

(A) the license application the person submitted to the person's home state; or

(B) if the person is not a firm, a completed uniform application or, if a firm, the uniform business entity application; and

(3) the person's home state awards nonresident producer, limited lines, **independent adjuster**, surplus lines, managing general agent, reinsurance intermediary broker, and reinsurance intermediary manager licenses to residents of

1 this state on the same basis as does this state.

2 * **Sec. 11.** AS 21.27.420 is amended by adding a new subsection to read:

3 (d) Without prior hearing, the director may order summary suspension of a
4 license if the director finds that protection of the public requires emergency action and
5 incorporates that finding in an order. The suspension is effective on the date specified
6 in the order or on the date of mailing by first class mail to the licensee's business
7 address on record with the division, whichever is later. If the licensee requests a
8 hearing, the director shall conduct a hearing on the suspension within a reasonable
9 time but not later than 20 days after the effective date of the summary suspension
10 unless the person whose license is suspended requests a later date. At the hearing, the
11 director shall determine if the suspension should be continued or withdrawn and, if
12 proper notice is given, may determine if the license should be revoked. The director
13 shall issue a decision within 30 days after the conclusion of the hearing. If the director
14 decides to continue the suspension or revoke the license, the suspension or revocation
15 must be based on one or more grounds in AS 21.27.410. The summary suspension
16 continues until the decision is issued. AS 21.06.190 and AS 44.64.030 are not
17 applicable to a hearing under this subsection.

18 * **Sec. 12.** AS 21.27.630 is amended by adding a new subsection to read:

19 (m) A person who is an employee of a third-party administrator and who acts
20 within the course and scope of that employment and within the scope of the written
21 contract required under AS 21.27.650(a)(4) is not required to be registered as a third-
22 party administrator under this section. The third-party administrator is responsible for
23 the acts of its employees regulated under this title.

24 * **Sec. 13.** AS 21.27.900(11) is amended to read:

25 (11) "home state" means the District of Columbia or a state or territory
26 of the United States in which an insurance producer or an independent adjuster
27 maintains the producer's or adjuster's principal place of residence or principal place
28 of business and is licensed to act as an insurance producer or independent adjuster;

29 * **Sec. 14.** AS 21.34.020 is amended by adding a new subsection to read:

30 (c) If a policy holder meets the standards of an exempt commercial
31 policyholder under this title and regulations adopted by the director, insurance may be

1 procured from a surplus lines broker without complying with (a)(2), (3), and (4) of this
2 section.

3 * **Sec. 15.** AS 21.34.040(d) is amended to read:

4 (d) A nonadmitted insurer may be eligible to provide coverage in this state if it
5 files with [FURNISHES TO] the director or the director's designee a copy of its
6 current annual financial statement that has been certified by the insurer. The financial
7 statement must be [EXCEPT IN THE CASE OF AN ALIEN INSURER, THE
8 STATEMENT SHALL BE PROVIDED NOT MORE THAN SIX MONTHS AFTER
9 THE CLOSE OF THE PERIOD REPORTED UPON AND THAT IS EITHER] filed
10 with and approved by the regulatory authority in the domicile of the nonadmitted
11 insurer, or certified by an accounting or auditing firm licensed in the jurisdiction of the
12 insurer's domicile. A foreign insurer shall provide the approved or certified
13 financial statement not more than six months after the close of the reporting
14 period. An alien insurer shall provide the approved or certified financial statement
15 not more [LATER] than nine months after the close of the reporting period. In the
16 case of an insurance exchange, the statement may be an aggregate combined statement
17 of all underwriting syndicates operating during the period reported upon.

18 * **Sec. 16.** AS 21.34.080(a) is amended to read:

19 (a) A surplus lines broker shall execute and file with the monthly report
20 required by AS 21.34.170 a written report, which shall be kept confidential, regarding
21 each surplus lines insurance transaction occurring in the preceding calendar month.
22 The report must include

23 (1) the name and address of the insured;

24 (2) the identity of each insurer including the National Association of
25 Insurance Commissioners [GROUP AND] company [INSURER] number and the
26 percentage of coverage provided by each;

27 (3) a complete description of the subject and location of the risk;

28 (4) the amount of gross premium written [CHARGED] for the
29 insurance; and

30 (5) other information required by the director.

31 * **Sec. 17.** AS 21.36.110 is amended to read:

1 **Sec. 21.36.110. Exceptions to discrimination and rebates.** Nothing in
 2 AS 21.36.090, [AND] 21.36.100, **and AS 21.54.100** may be construed as including
 3 within the definition of discrimination or rebates any of the following practices:

4 (1) in the case of a contract of life insurance or life annuity, paying
 5 bonuses to policyholders or otherwise abating their premiums in whole or in part out
 6 of surplus accumulated from nonparticipating insurance, if the bonuses [,] or
 7 abatement of premiums are fair and equitable to policyholders and for the best
 8 interests of the insurer;

9 (2) in the case of a life insurance **policy** [POLICIES] issued on [THE]
 10 industrial debit, preauthorized check, bank draft, or similar plans, making allowance to
 11 policyholders who have [CONTINUOUSLY FOR A SPECIFIED PERIOD] made
 12 premium payments directly to an office of the insurer or by preauthorized **debit**,
 13 check, bank draft, or similar plan, in an amount that fairly represents the saving in
 14 collection expense;

15 (3) readjustment of the rate of premium for a group insurance policy
 16 based on the loss or expense experience thereunder, at the end of the first or a
 17 subsequent policy year of insurance thereunder, which may be made retroactive only
 18 for that policy year;

19 (4) issuance of life or health insurance policies or annuity contracts at
 20 rates less than the usual rates of premiums for the policies or contracts, or modification
 21 of premium or rate based on amount of insurance; but the issuance or modification
 22 **may** [SHALL] not result in reduction in premium or rate in excess of savings in
 23 administration and issuance expenses reasonably attributable to the policies or
 24 contracts;

25 **(5) a reward under a wellness program established under a health**
 26 **care plan that favors an individual if the wellness program meets the following**
 27 **requirements:**

28 **(A) the wellness program is reasonably designed to promote**
 29 **health or prevent disease;**

30 **(B) an individual has an opportunity to qualify for the**
 31 **reward at least once a year;**

1 (C) the reward is available for all similarly situated
 2 individuals;

3 (D) the wellness program has alternative standards for
 4 individuals who are unable to obtain the reward because of a health
 5 factor;

6 (E) alternate standards are available for an individual who
 7 is unable to participate in a reward program because of a health
 8 condition;

9 (F) the insurer provides information explaining the
 10 standard for achieving the reward and discloses the alternate standards;
 11 and

12 (G) the total rewards for all wellness programs under the
 13 health insurance policy do not exceed 20 percent of the cost of coverage.

14 * Sec. 18. AS 21.36.355(a) is amended to read:

15 (a) A person who has a conviction for a felony involving dishonesty or a
 16 breach of trust may not engage or participate in the business of insurance without
 17 receiving prior written consent by the director or by the insurance regulatory
 18 official of the person's home state as required under 18 U.S.C. 1033 and 1034
 19 (Violent Crime Control and Law Enforcement Act of 1994).

20 * Sec. 19. AS 21.42.120(d) is amended to read:

21 (d) The director may, by order, require that a form or document be filed for
 22 informational purposes or may exempt a form or document from the requirements
 23 of this section for a time determined by the director when, [AN INSURANCE
 24 DOCUMENT OR FORM OR TYPE THEREOF AS SPECIFIED IN THE ORDER,
 25 TO WHICH,] in the opinion of the director, this section may not practicably be
 26 applied, or the filing or [AND] approval of the form or document is [WHICH ARE],
 27 in the opinion of the director, not desirable or necessary for the protection of the
 28 public. [THE DIRECTOR SHALL, BY JULY 1, 2002, ADOPT REGULATIONS
 29 CONSISTENT WITH THE NATIONAL ASSOCIATION OF INSURANCE
 30 COMMISSIONERS PROPERTY AND CASUALTY MODEL RATE AND POLICY
 31 FORM ACT AUTHORIZING A POLICY OF COMMERCIAL INSURANCE TO BE

1 FILED ON OR BEFORE THE DATE OF USE AND TO BE NOT SUBJECT TO
2 THE PRIOR APPROVAL OF THE DIRECTOR.]

3 * **Sec. 20.** AS 21.42.160(d) is amended to read:

4 (d) Each policy and annuity contract issued by an [A DOMESTIC] insurer,
5 and the forms thereof filed with the director, must have printed on them an appropriate
6 designating letter or figure, or combination of letters or figures, or terms identifying
7 the respective forms of policies or contracts, together with the year of adoption of the
8 form. When a change is made in the form, the designating letters, figures, or terms and
9 year of adoption must [SHALL] be correspondingly changed.

10 * **Sec. 21.** AS 21.42.385(b) is amended to read:

11 (b) The minimum coverage required under (a) of this section [MAY]

12 (1) may be provided under contract with another health care insurer;

13 [AND]

14 (2) may not be less than the dental, vision, and hearing coverage
15 provided on July 1, 2009 [JANUARY 1, 1992], to an individual entitled to medical
16 benefits under AS 39.35.535 (public employees' retirement system of Alaska); and

17 (3) shall be adjusted by the director on July 1, 2012, and every
18 three years thereafter to correspond to changes in coverage provided to
19 individuals entitled to medical benefits under AS 39.35.535.

20 * **Sec. 22.** AS 21.55.100(b) is amended to read:

21 (b) The association may [SHALL] make available to residents who are high
22 risks, eligible for and covered by Medicare, 65 years of age or older, and eligible
23 under this chapter [AT LEAST] one or more Medicare supplement plans [PLAN]
24 that meet [MEETS] the minimum policy standards and minimum benefit standards
25 established by regulations adopted by the director under AS 21.89.060.

26 * **Sec. 23.** AS 21.55.500(19) is repealed and reenacted to read:

27 (19) "resident" means

28 (A) except for a federally defined eligible individual or TAA
29 eligible individual, an individual who meets the eligibility requirements in
30 AS 43.23.005; or

31 (B) for a federally defined eligible individual or TAA eligible

1 individual, an individual who is legally domiciled in this state.

2 * **Sec. 24.** AS 21.78.010(b) is amended to read:

3 (b) **Except as provided under AS 21.24, delinquency** [DELINQUENCY]
 4 proceedings under this chapter constitute the sole and exclusive method of liquidating,
 5 rehabilitating, reorganizing, or conserving an insurer, and a court may not entertain a
 6 petition for the commencement of the proceedings unless it has been filed in the name
 7 of the state on the relation of the director.

8 * **Sec. 25.** AS 21.84.465(b) is amended to read:

9 (b) A society transacting business in this state shall annually, [ON OR] before
 10 March 2, unless the time has been extended by the director for cause shown, file with
 11 the director a true statement of the society's financial conditions, transactions, and
 12 affairs for the preceding calendar year and pay the applicable fee under AS 21.06.250.
 13 The statement shall be in the general form and content approved by the National
 14 Association of Insurance Commissioners for fraternal benefit societies and
 15 supplemented by additional information required by the director.

16 * **Sec. 26.** AS 21.85.100 is amended to read:

17 **Sec. 21.85.100. Applicability of other provisions.** In addition to the
 18 provisions contained or referred to in this chapter, the following chapters and
 19 provisions of this title also apply with respect to self-funded multiple employer
 20 welfare arrangements to the extent applicable and not in conflict with the express
 21 provisions of this chapter and the reasonable implications of the express provisions,
 22 and, for the purposes of the application, the arrangements shall be considered to be a
 23 mutual insurer:

24 (1) AS 21.03;

25 (2) AS 21.06;

26 (3) AS 21.07;

27 (4) AS 21.09.100, 21.09.120, 21.09.130, 21.09.140 - 21.09.200,
 28 21.09.210, 21.09.245 - 21.09.270, 21.09.300, and 21.09.320;

29 (5) AS 21.18.010 - 21.18.050, 21.18.080 - 21.18.086, and 21.18.100;

30 (6) AS 21.24;

31 (7) AS 21.33;

- 1 (8) [(7)] AS 21.36;
 2 (9) [(8)] AS 21.42.120, 21.42.130, 21.42.345 - 21.42.365, and
 3 21.42.375 - 21.42.500;
 4 (10) [(9)] AS 21.48;
 5 (11) [(10)] AS 21.54;
 6 (12) [(11)] AS 21.55;
 7 (13) [(12)] AS 21.56;
 8 (14) [(13)] AS 21.78;
 9 (15) [(14)] AS 21.89.060;
 10 (16) [(15)] AS 21.90.

11 * **Sec. 27.** AS 21.87.180 is amended by adding a new subsection to read:

12 (e) A filing under this section is open to public inspection after the date the
 13 filing becomes effective.

14 * **Sec. 28.** AS 21.87.340 is amended to read:

15 **Sec. 21.87.340. Other provisions applicable.** In addition to the provisions
 16 contained or referred to previously in this chapter, the following chapters and
 17 provisions of this title also apply with respect to service corporations to the extent
 18 applicable and not in conflict with the express provisions of this chapter and the
 19 reasonable implications of the express provisions, and, for the purposes of the
 20 application, the corporations shall be considered to be mutual "insurers":

- 21 (1) AS 21.03;
 22 (2) AS 21.06;
 23 (3) AS 21.07;
 24 (4) AS 21.09, except AS 21.09.090;
 25 (5) AS 21.18.010;
 26 (6) AS 21.18.030;
 27 (7) AS 21.18.040;
 28 (8) AS 21.18.080 - 21.18.086;
 29 (9) AS 21.36;
 30 (10) AS 21.42.110, 21.42.345 - 21.42.365, [AS 21.42.345 - 21.42.365]
 31 and 21.42.375 - 21.42.395;

- 1 (11) AS 21.51.120 **and 21.51.400;**
2 (12) AS 21.53;
3 (13) AS 21.54;
4 (14) AS 21.56;
5 (15) AS 21.69.400;
6 (16) AS 21.69.520;
7 (17) AS 21.69.600, 21.69.620, and 21.69.630;
8 (18) AS 21.78;
9 (19) AS 21.89.060;
10 (20) AS 21.90.
11 * **Sec. 29.** AS 21.90.900 is amended by adding a new paragraph to read:
12 (46) "working day" means a calendar day other than Saturday, Sunday,
13 an official federal holiday, or an official holiday of this state.
14 * **Sec. 30.** AS 44.64.030(a)(17) is amended to read:
15 (17) AS 21.09, AS 21.22.190, AS 21.27, **except under**
16 **AS 21.27.420(d),** AS 21.34, AS 21.36, AS 21.69, AS 21.86.200, AS 21.87, and
17 AS 21.89 (insurance);
18 * **Sec. 31.** AS 21.07.250(19); AS 21.27.410(a)(10), 21.27.410(a)(11), 21.27.410(a)(12); and
19 AS 21.55.220(b) are repealed.
20 * **Sec. 32.** This Act takes effect July 1, 2009.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
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Title Insurance RDU Insurance (116)
Component Insurance
Sponsor House Labor and Commerce
Requester House Labor and Commerce Component Number 354

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()							
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This bill contains various updates and refinements to Title 21. The proposed legislation will streamline some processes of the division, provide clarity to certain statutory provisions and provide updates of statutes for greater uniformity with national standards.

Prepared by: Linda S. Hall, Director Phone 907-269-7900
Division Insurance Date/Time 03-09-09/ 11:15 am
Approved by: Emil R. Notti, Commissioner Date 3/9/2009
Department of Commerce, Community, and Economic Development



ALASKA STATE LEGISLATURE

HOUSE LABOR & COMMERCE COMMITTEE

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Rep. John Coghill Rep. Bob Lynn
Rep. Lindsey Holmes Rep. Bob Buch

Sectional Analysis

CSHB 175(L&C) – Insurance

Section 1. Amends AS 21.06.060(f) by removing the restriction that only financial analysis ratios and examination synopses from the NAIC would be held confidential.

Section 2. Amends AS 21.06.180(b) to provide an exception for the emergency summary suspension of a license in AS 21.27.420(d) which requires a hearing within 20 days.

Section 3. Amends AS 21.06.180(c) to provide an exception for 21.27.420(d) which does not provide for a refusal to grant a hearing

Section 4. Amends AS 21.06.190(a) to provide an exception for 21.27.420(d) which does not provide for a stay of an order of suspension.

Section 5. Amends AS 21.24.130(d) clarifies how the deposit in Alaska of a domestic insurer covered by the Alaska Life and Health Insurance Guaranty Association or the Alaska Insurance Guaranty Association will be treated when the insurer is under a delinquency proceeding in AS21.78.

Section 6. Amends AS 21.24.130(f) clarifies how the deposit of a foreign insurer will be treated when the insurer is insolvent. The deposit will be released to the applicable guaranty association. After all liabilities for the insurer's policies in this state are paid, the monies will be paid to the receiver.

Section 7. Amends AS 21.24.130. Adds a new subsection to AS 21.24.130 to provide a process for handling deposits of insurers that are not members of any guaranty association. These deposits are sent to the insolvent insurer's receiver.

Section 8. Amends AS 21.27.140(b) to remove the requirement that the firm's compliance officer must be licensed for all lines of authority the firm holds.

This is a summary only. Note that this sectional analysis should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 9. Amends AS 21.27.150(a) changes the definition for products sold by a limited travel licensee to comply with national uniform licensing standards.

Section 10. Amends AS 21.27.270(b) to permit the Director to issue a nonresident adjuster license under AS 21.27.020 if the independent adjuster's home state does not license independent adjusters.

Section 11. Amends AS 21.27.420. Adds a new subsection to AS 21.27.420 to provide authority to Director to do a summary suspension of a license, in the event of an emergency for public protection. Requires a decision be rendered within 30 days of the conclusion of the hearing.

Section 12. Amends AS 21.27.630. Adds a new subsection to AS 21.27.630 clarifying that individuals operating on behalf of the third party administrator are not required to obtain a separate registration.

Section 13. Amends AS 21.27.900 (11) modifies the definition of "home state" to include independent adjusters.

Section 14. Amends AS 21.34.020. Adds a new subsection to AS 21.34.020 enabling large commercial insureds which meet the definition of 'exempt commercial policyholder' to make their own choice of admitted or surplus lines insurers.

Section 15. Amends AS 21.34.040(d) to permit surplus lines insurer's annual statement filing with the National Association of Insurance Commissioners (NAIC) to be accepted as being filed with the division, and clarifies due date of filing between foreign and alien insurers.

Section 16. Amends AS 21.34.080(a) to modify details of surplus lines transaction filing to agree with AS 21.34.170 and remove unnecessary requirement.

Section 17. Amends AS 21.36.110 to clarify that rewards under wellness programs that meet the federal HIPPA requirements do not constitute rebating.

Section 18. Amends AS 21.36.355(a) to allow the Director to accept written consent issued to a nonresident by another insurance regulator official under 18 U.S.C. § 1033 and § 1034

Section 19. Amends AS 21.42.120(d) to allow the Director to require informational form filings (in lieu of filing for approval or before use).

Section 20. Amends AS 21.42.160(d) to require foreign insurers (in addition to domestic insurers) to include form numbers on their insurance policy and annuity contract forms.

Section 21. Amends AS 21.42.385(b) to allow the Director to update the dental, vision and hearing coverage mandate requirements to assure that the benefits remain current.

Section 22. Amends AS 21.55.100(b) to allow the board the flexibility to determine whether a Medicare supplement plan should be offered, given that Alaska Comprehensive Health Insurance Association (ACHIA) offers a more comprehensive Medicare carve-out plan.

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Section 23. Repeals and reenacts AS 21.55.500(19) modifies the ACHIA residency requirements to mirror the requirements for Permanent Fund Dividend qualification. Eases administration and allows more individuals would qualify for ACHIA.

Section 24. Amends AS 21.78.010(b) to provide an exception to claim payment priorities for deposits administered under AS 21.24..

Section 25. Amends AS 21.84.465(b) modifies the language regarding the due date of the annual financial statement for fraternal benefit societies to be consistent with the due date statute language of other types of insurers to require filing no later than March 1.

Section 26. Amends AS 21.85.100 to provide that the deposit administration requirements under AS 21.24 (Deposits) are applicable is to multiple employer welfare arrangement deposits required under AS 21.85

Section 27. Amends AS 21.87.180. Adds a new subsection AS 21.87.180(E) to make hospital and medical service corporations filings publicly available consistent with other insurers filings in AS 21.42.123 and AS 21.42.125.

Section 28. Amends AS 21.87.340 to make hospital or medical service corporations subject to the individual health insurance guaranteed renewability laws in AS 21.51.400; and to rules regarding representations and warranties requirements in AS 21.42.110

Section 29. Amends AS 21.90.900 to add new paragraph. Adds the definition of ‘working day.’

Section 30. Amends AS 44.64.030(a)(17) to add summary suspensions to the list of insurance exemptions from the Office of Administrative Hearings.

Section 31. Repeals AS 21.07.250(19), AS 21.27.410(a)(10),(11) and (12), AS 21.55.220(b) repeals definitions of working day which was added to general title definitions; Repeals archaic reasons for denial, suspension or revocation of a license issued under AS 21.27.

Section 32. Provides for an effective date of July 1, 2009.

This is a summary only. Note that this sectional analysis should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

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**Session**

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Room 204

REPRESENTATIVE JOHN COGHILL

Date: April 14, 2009

To: Terry Bannister, Legal Counsel

From: Rynnieva Moss, Legislative Aide *Rynnieva Moss*

Re: LS0477\C

I need the following amendments for HB 177:

Page 4, lines 19 and 20:

Delete:

[, or a product model from the previous two years]

Insert:

and all new products that are less than two years old;

Page 6, line 24, insert:

"If the technician performing the warranty work meets the contractual standards for certification, a [A]"

Page 7, line 7:

After the word "price", insert:

"for parts in authorized dealer's inventory"

After the word "part", insert:

"not in the authorized dealer's inventory"

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Session

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REPRESENTATIVE JOHN COGHILL

Marine Products and Motorized Recreational Products Act.

Sectional Version LS0477\C

Section 1. Clarifies that snow machines, recreational vehicles, and all-terrain vehicles are regulated under AS 45.27, not AS 45.25.

Sec. 2. Adds a new chapter of law enacting the Marine Products and Motorized Recreational Products Act.

AS 45.27.010. Prohibits a manufacturer of marine products and motorized recreational products from withhold consent for the sale or transfer of a dealership without cause.

AS 45.27.020. Prohibits a manufacturer from cancelling or failing to renew a dealership without good cause. If the reasons for good cause can be corrected, the manufacturer will give the dealer 60 days to do so.

AS 45.27.030. Insolvency, felony conviction involving moral turpitude or fraud, or other actions contained in the dealership agreement as actions which constitute cancellation require a 15 day notice. All other cancellations or nonrenewals require a 90 day notice.

AS 45.27.040. Prohibits a manufacturer from threatening cancellation or nonrenewal of a dealership in order to get the dealer to enter into an unfair contract.

AS 45.27.050. When a manufacturer cancels or fails to renew a dealership agreement without good cause, the manufacturer agrees to repurchase the remaining inventory of current product models and those from the previous product year. The manufacturer will also buy parts that were purchased from the manufacturer, were listed in the parts price book in the last years, and have not been damaged or substantially altered. The manufacturer will pay for freight and handling costs.

The dealer must return the inventory within 90 days after the cancellation and the manufacturer has 60 days to pay the dealer for the inventory.

AS 45.27.100. Requires the manufacturer to supply a warranty with the product to be provided to the purchaser through the dealer upon purchase of the product or part.

AS 45.27.110. Requires the manufacturer to pay the dealer for warranty work performed to cure a factory defect.

Requires manufacturer to provide replacement of defective products as soon as possible. If the manufacturer cannot replace the defective product and the product is out of service for a thirty day period, the manufacturer must repurchase or replace the defective product at landed cost and 100% of freight to return product to manufacturer.

AS 45.27.120. Requires dealer to deliver warranty and owners manuals with product and prohibits dealer from making misrepresentations about warranty of products.

AS 45.27.130. Requires dealers to honor warranty service for manufacturers' products sold by dealer. This assures the purchaser the warranty service will be available.

AS 45.27.140. Allows dealer latitude to properly address warranty defects.

AS 45.27.150. Sets the rates for reimbursement to an authorized dealer for warranty work. The authorized dealer will be paid the highest rate available from the rate of nonwarranty work charged by the dealer, the flat rate provided by the manufacturer, or the flat rate in a manual prepared by a nationally respected industry consultant.

AS 45.27.160. A manufacturer will pay a claim within 30 days of receipt of claim unless they deny the claim. If they fail to pay or fail to deny claim within 30 days of receipt they will be considered as accepting the claim and will pay interest on the past due amount of 1.5 percent per month.

AS 45.27.170. A manufacturer has 30 days to give notice that they are denying warranty service claim and must include the reason(s) for the denial.

AS 45.27.180. If a product does not conform to the warranty the purchaser shall notify the manufacturer or the authorized dealer and repairs shall be made.

AS 45.27.190. Instruct under the warranty provisions t manufacturer to replace the product or refund the purchase price with certain deductions if after reasonable attempts the product cannot be brought up to standard guaranteed in warranty.

AS 45.27.200. Requires purchaser to give written notice by certified mail that he or she is requesting a refund or a replacement. Notice must be given within one year of the purchase or 60 days after the elapse of the warranty.

AS 45.27.210. The manufacturer does not have to refund or replace the product if the nonconformity is a result of actions by the purchaser and not that of the manufacturer or the authorized dealer.

AS 45.27.220. Requires a manufacturer to replace a product or repurchase the product if it is out of service for a 30-day period because of a defect or the dealer has attempted to fix a defect unsuccessfully three times or more.

Article 3. Miscellaneous Business Practices.

AS 45.27.250. Requires dealers to post a notice of retail labor rates and notice of factory-certified or trained technicians. They are also required to post whether or not service employees are paid on commission.

AS 45.27.260. Requires dealer to provide a written estimate to a customer for repair of a product including specific parts, labor, and cost of repairs that is not warranty repair work.

If, after, beginning work on repairs, the technician determines other repairs are necessary, the dealer will contact the customer and receive permission to do additional repairs.

An authorized dealer is required to post notice of charges for diagnostics, storage, and other incidentals not associated with the actual repair.

AS 45.27.270. Requires the manufacturer to provide a written recall notice to both the dealer and the ultimate purchaser for a defective product or part and the notice must include a shipping date for parts and equipment required to correct a defect requiring a recall.

AS 45.27.280. Requires a manufacturer to disclose any nonconformity to a product repurchased and resold because of the lemon law imposed.

Article 4. Miscellaneous Provisions.

AS 45.27.300. AS 45.27 is a portion of the laws that deal with dealership agreements, consumer protection laws, and contractual law.

AS 45.27.310. This new law would not apply to agreements between an authorized dealer and a manufacturer.

AS 45.27.320. Gives State of Alaska jurisdiction of legal disputes between manufacturers and dealers. The venue for court action is the judicial district in which the dealership is located.

AS 45.27.330. Prevents a manufacturer from using an affiliate or subsidiary corporation to avoid compliance with this chapter of law.

AS 45.27.340. If a provision in a dealership agreement violates this chapter the provision is not enforceable.

AS 45.27.390. Definitions.

AS 34.27.395. Short title of chapter is Alaska Marine Product and Motorized Recreational Product Act.

Sec. 3. **AS 45.45.770.** Exempts marine products and motorized recreational products from AS 45.45, Article 10 Distributorships.

Sec. 4. Adds a violation of marine products and motorized recreational products to the list of “unfair methods of competition” and “unfair or defective acts or practices” under AS 45.50 Unfair Trade Practices and Consumer Protection.

Sec. 5. Indirect court rule change for venue provision in AS 45.27.320 enacted on page 11, line 17 of bill.

Sec. 6. Applicability of chapter is for agreements entered into after the enactment of this chapter.

Sec. 7. Has an immediate effective date.