

# ALASKA STATE LEGISLATURE

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Official Business

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### Sectional Analysis CS House Bill 164 (L&C)

*"An Act relating to health care insurance, exemption of certain insurers, reporting, notice, and record-keeping requirements for insurers, biographical affidavits, qualifications of alien insurers assuming ceded insurance, risk-based capital for insurers, insurance holding companies, licensing, federal requirements for nonadmitted insurers, surplus lines insurance, insurance fraud, life insurance policies and annuity contracts, rate filings by health care insurers, long-term care insurance, automobile service corporations, guaranty fund deposits of a title insurer, joint title plants, fraternal benefit societies, multiple employer welfare arrangements, hospital and medical service corporations, health maintenance organizations, and alternate forms of payment to policyholders; and providing for an effective date."*

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.

| Sec.   | Statute   | Change                        | Purpose or Effect   |
|--------|-----------|-------------------------------|---|
| 1.     | 21.03.021 | Amended by new subsection (f) | Clarifies that policies issued by a company exempt from licensing in 21.09.020(5) is exempt from the insurance statutes.  |
| 2.-21. | 21.07     |                               | The changes to these sections modify terminology. The terms "managed care entity" and "managed care plan" are replaced with terms used in the other Alaska health insurance statutes. The term managed care entity is only used in AS 21.07 but actually means health care insurer and managed care plan means health care insurance policy which are the terms used in the other insurance statutes. Therefore, the changes to this chapter create consistency and reduce confusion over meaning of the terms. |
| 22.    | 21.09.020 | Amended                       | Adds an exemption from company licensing for  |

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|     |               |                                  | companies that have issued a policy in another state that is now in this state and the insurer meets other qualifications for exemption adopted by the director.  |
| 23. | 21.09.200(e)  | Amended                          | Applies the penalty for a company not filing a statement or report to include the annual audit report and any other report required by this section.  |
| 24. | 21.09.245(b)  | Amended                          | Adds the electronic mailing address to the list of company changes required to be filed with the director.  |
| 25. | 21.09         | Amended by new section 21.09.247 | Adds a requirement that a domestic insurer must file a biographical affidavit with the director when an officer or director of the insurer is appointed. The director is also given the authority to request an affidavit from a foreign insurer.   |
| 26. | 21.09.320     | Amended                          | Clarifies that foreign company licensees must maintain records as required in statute for domestic companies or as required by the domicile state, whichever is longer.   |
| 27. | 21.12.020(a)  | Amended                          | Clarifies that alien reinsurer trust funds must cover claims of US ceding insurers and not all US policyholders. This change is from NAIC model law.  |
| 28. | 21.12.050(b)  | Amended                          | Clarifies the definition of health care insurance to include the delivery, arrangement for, payment for or reimbursement of costs of medical care.  |
| 29. | 21.14.200(4)  | Amended                          | Adds to the definitions of a company action level event for a property and casualty insurer or health organization a risk based capital result of 300% and a negative trend over time. Presence of the event results in regulatory action. This change is from NAIC model law and is expected to be an accreditation requirement. |
| 30. | 21.14.200(9)  | Amended                          | Clarifies the definition of a "life and health insurer" by including the filing of a life risk based capital report as evidence of a life and health insurer. This change is from NAIC model law.   |
| 31. | 21.14.200(12) | Amended                          | Adds in the definition of "negative trend" references to property and casualty insurer and health organization for risk based capital purposes. This change is from NAIC model law and is expected to be an accreditation requirement.  |
| 32. | 21.14.200(13) | Amended                          | Clarifies the definition of a "property and casualty insurer" by including the filing of a property/casualty risk based capital report as evidence of a property and casualty insurer. This change is NAIC model law.   |
| 33. | 21.14.200     | Amended by new paragraph         | Adds a definition for a "health organization" to include several types of health companies, or companies that write primarily health insurance and  |

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|     |               | (21)                             | file the health risk based capital report. This change is NAIC model law.   |
| 34. | 21.22.060(k)  | Amended                          | Changes the date for filing of the annual holding company registration statement from April 1 to May 1 to allow for a more complete report when filed. This change is a recommendation from the NAIC accreditation team.  |
| 35. | 21.27.020(b)  | Amended                          | Reference to the "Individual in a firm" was removed due to the proposal to repeal this license type.  |
| 36. | 21.27.020(c ) | Amended                          | Reference to the requirement that the firm's compliance officer notify the director of a termination of an individual in a firm was removed due to the proposal to repeal the "Individual in a firm" license type.  |
| 37. | 21.27.025     | Repealed and Reenacted           | Adds the requirement for a licensee to notify the director of a change in email address to facilitate email communications; removed some notification requirements for "Individual in a firm" license types as well as the requirement for the compliance officer of a firm to notify the director of the termination of an individual in the firm.   |
| 38. | 21.27.040(e)  | Amended                          | Removes the requirement for nonresidents to submit fingerprints. This change is necessary to comply with the requirements under Gramm-Leach-Bliley Act and national uniformity license standards.   |
| 39. | 21.27.100(c ) | Amended                          | Indicates that the firm's company appointment would extend to any individual working under an employment contract with a firm since they are no longer licensed as an "Individual in a firm".   |
| 40. | 21.27.140(b)  | Amended                          | Removes the "Individual in a firm" license type and adds reference to employment contracts for individuals associated with firms.   |
| 41. | 21.27         | Amended by new section 21.27.215 | Employment contracts are the mechanism that provides authority to the director to track individuals employed by and representing a firm since we will no longer issue an Individual in a firm license type. This new provision establishes requirements for individuals and firms and requires both parties to retain copies of the contracts to respond to a directors' inquiry. The firm will be held responsible for the actions of an employee transacting business under the firm's contracts. |
| 42. | 21.27.350(e)  | Amended                          | Due to the proposed repeal of the "Individual in a firm" license type, this change clarifies that the records for a firm shall include and be considered the records of an individual employed by and representing a firm   |

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|     |               |                                  | operating under an employment contract.  |
| 43. | 21.27.360(f)  | Amended                          | Due to the proposed repeal of the “Individual in a firm license type”, this change clarifies that all money received by a firm as a fiduciary is not required of an individual employed by and representing a firm operating under an employment contract.                   |
| 44. | 21.27.790     | Amended                          | Removes the requirement for nonresidents to hold an underlying property/casualty producer license to obtain a surplus lines broker license. This change is necessary to comply with the requirements under Gramm-Leach-Bliley Act and national uniformity license standards. |
| 45. | 21.27.900(22) | Amended                          | Reference to “Individual in a firm” license type was eliminated due to the proposal to repeal that license type.   |
| 46. | 21.33.055(a)  | Repealed and Reenacted           | Modifies tax rate by combining the 2.7% surplus lines tax with the 1% surplus lines filing fee and allows for 100% collection of taxes for Multi-State risk where Alaska is the home state per federal law.  |
| 47. | 21.33.055     | Amended by new subsection (d)    | Adds section to maintain penalties.  |
| 48. | 21.33.061(c ) | Repealed and Reenacted           | Modifies the tax rate by combining the 2.7% surplus lines tax with the 1% surplus lines filing fee and allows for 100% collection of taxes in Alaska for risks located both in and out of this state.  |
| 49. | 21.33.061     | Amended by new subsection (j)    | Adds section to maintain penalties.  |
| 50. | 21.33         | Amended by new section 21.33.063 | Authorizes Director to join a multi-state agreement for the purposes of collecting taxes and distributing to other states where a portion of the risk is located.  |
| 51. | 21.34.020(b)  | Repealed and Reenacted           | Amends to clarify an exempt commercial purchaser is not required to satisfy certain marketing requirements to comply with federal law.   |
| 52. | 21.34.040(c ) | Amended                          | Amends to meet minimum eligibility requirements of federal law and to add ability to use the National Association of Insurance Commissioners quarterly listing for Surplus Lines Insurer eligibility.  |
| 53. | 21.34.040     | Amended by new                   | Permits Director to approve a company as eligible using alternate eligibility requirements.  |

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|     |              | subsection (f)                |  |
|     |              | Amended by new subsection (g) | Authorizes Director to join a multi-state agreement to develop uniform eligibility requirements.   |
| 54. | 21.34.080(a) | Amended                       | Modifies reporting requirements removing monthly reporting   |
| 55. | 21.34.170(a) | Amended                       | Modifies reporting requirements to specified quarterly dates   |
| 56. | 21.34.180    | Repealed and Reenacted        | Modifies to allow 100% tax collection in Alaska on risks located both in and out of this state, authorizes the director to participate in an agreement with other states for collecting and disbursing taxes on portions out of this state and authorizes an allocation schedule be adopted by regulation for apportioning taxable premiums. |
| 57  | 21.34.190(a) | Amended                       | Corrects reference   |
| 58. | 21.34.900    | Amended by new paragraph (10) | Adds definition of affiliate to comply with federal law.   |
|     |              | Amended by new paragraph (11) | Adds definition of affiliated group to comply with federal law.  |
|     |              | Amended by new paragraph (12) | Adds definition of control to comply with federal law.   |
|     |              | Amended by new paragraph (13) | Adds definition of exempt commercial purchaser to comply with federal law.   |
|     |              | Amended by new paragraph (14) | Adds definition of home state to be used in determination of tax collection and authority over surplus lines transactions to comply with federal law.  |
|     |              | Amended by new paragraph (15) | Adds definition of remitting state to comply with federal law.   |
| 59. | 21.36        | Amended by new section        | Current Alaska laws do not require notification to consumers of changes in health insurance contracts provisions, premiums or coverage. This section   |

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|     |              | 21.36.225                               | requires insurers to provide advance notice to consumers of such changes.   |
| 60. | 21.36.360(q) | Amended                                 | Provides that forging an insurance document would be a felony regardless of whether there was intent to defraud   |
| 61. | 21.45.020    | Amended by new subsections (c ) and (d) | These sections adds an important protection for consumers by requiring insurers to give consumers at least 10 days to return a policy and receive a refund of premium.  |
| 62. | 21.51.405    | Amended by new subsection (b)           | <p>The amendment to this section requires filing and approval of <u>individual</u> health care insurance rates by all insurers in Alaska. This will level the playing field with hospital or medical service corporations in Alaska and will allow the Director to disapprove rates that do not comply with minimum state law prohibiting rates that are excessive, inadequate or unfairly discriminatory to help assure that such rates are not used in Alaska.</p> <p>Currently only hospital or medical service corporations (Premera Blue Cross) must file rates with the Division of Insurance.</p>  |
|     |              | Amended by new subsection (c )          | This section requires the director to adopt regulations implementing the rate requirements in this section.   |
|     | AS 21.53     |   | The changes to this chapter update Alaska's long term care statutes which are 20 years old. Long term care insurance has changed over the last 20 years and the changes will allow us to adopt regulations to address the current long term care market. In addition to bringing the laws up to date, adopting the current NAIC Long Term Care model provisions will allow insurers to offer long term care policies in Alaska that comply with the federal long term care partnership policy requirements should Alaska decide to participate in this program in the future. In addition the Division currently has authority to review and approve long term care forms but not rates and the changes will allow the Director to require filing and approval of rates before use for the protection of Alaskan consumers. |
| 63. | 21.53.020    | Amended                                 | (1) and (2) are technical terminology clean-up and the change in (3) removes the requirement to consider number of days in evaluating the levels of coverage  |

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| 64. | 21.53.030(a)  | Amended                          | Removes the prudent person condition in the definition of preexisting condition in order to remove subjectivity in the determination of whether a preexisting condition.  |
| 65. | 21.53.030(b)  | Amended                          | Technical terminology clean-up  |
| 66. | 21.53.030 (d) | Amended                          | Technical terminology clean-up  |
| 67. | 21.53.040     | Amended                          | Adds a prohibition against conditioning eligibility for a benefit on prior institutionalization with specified exceptions and clarifies disclosure of postconfinement, postacute care or recuperative benefit limitations or conditions in the policy.  |
| 68. | 21.53.050(a)  | Amended                          | Adds right to receive refunds of premium within 30 days if a policy is return within 30 days or if an application is denied.  |
| 69. | 21.53.050(b)  | Amended                          | Adds a requirement to include in the outline of coverage a statement regarding whether the policy is intended to be a federally qualified long term care policy.  |
| 70. | 21.53.050     | Amended by new subsection (d)    | Adds an exemption for group policies from the requirement to provide an outline of coverage if information is contained in other enrollment materials   |
|     |               | Amended by new subsection (e)    | Requires an insurer to deliver a policy no later than 30 days after approval.   |
| 71. | 21.53.060(a)  | Amended                          | Adds a requirement that the policy summary state that inflation protection is not available under the policy, if the director adopts a regulation that does not require inflation protection  |
| 72. | 21.53.060     | Amended by new subsection (c )   | Requires insurers to provide a written explanation of the reasons for claim denial and to make all information directly related to the denial available to the policyholder within 60 days of request   |
| 73. | 21.53         | Amended by new section 21.53.062 | <p>---Restricts an insurer from rescinding or denying a claim</p> <p>*within 6 months except upon showing of misrepresentation material to acceptance of coverage.</p> <p>*within 6 months to 2 years upon showing of misrepresentation material to acceptance of coverage and pertaining to the condition for which benefits are sought</p> <p>*prohibiting an insurer from recovering payments if a policy is rescinded</p> <p>hours that is not product or company specific or sales or marketing, and must consist of long term care insurance topics</p> |

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|     |              | Amended by new section 21.53.064 | ---Requires insurers to offer non-forfeiture benefits and if policyholder declines, the insurer must provide a contingent benefit upon lapse  |
|     |              | Amended by new section 21.53.066 | ---Requires producers to complete a one-time long term care specific training of at least 8 credit hours  |
|     |              | Amended by new section 21.53.068 | Requires insurers to compensate a producer or third-party administrator based on the number of policies issued when the producer or third party administrator is granted underwriting authority by the insurer  |
| 74. | 21.53.090    | Amended                          | Adds authority to adopt regulations relating to incontestability periods; producer training, education, compensation, and testing; marketing practices, independent review of benefit determinations; penalties and reporting practices; premium rates including rate filing requirements; and format and content of outline of coverage.   |
| 75. | 21.53.200(3) | Amended                          | Adds reference to applicable existing association requirements in the definition of group long term care insurance.   |
| 76. | 21.53.200(4) | Amended                          | Adds an exception to the long term care insurance definition for accelerated death benefits in life insurance policies that are not conditioned on the receipt of long term care.   |
| 77. | 21.54.015    | Amended by new subsection (c )   | This section requires filing and approval of <u>group</u> health care insurance rates by all insurers in Alaska will level the playing field with hospital or medical service corporations in Alaska and will allow the Director to disapprove rates that do not comply with minimum state law prohibiting rates that are excessive, inadequate or unfairly discriminatory to help assure that such rates are not used in Alaska.<br><br>Currently only hospital or medical service corporations (Premera Blue Cross) must file rates with the Division of Insurance. |
|     |              | Amended by new subsection (d)    | This section requires the director to adopt regulations implementing the rate requirements in this section.   |
| 78. | 21.54.020(a) | Amended                          | Removes reference to managed care plan in AS 21.07 because the reference is incorrect and the term is no longer used.   |
| 79. | 21.54        | Amended by new                   | The change to this section prohibits sales of individual policies to employers or employees except as specified.  |



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|     |               | section 21.54.180             | This change is needed in order to help preserve the group insurance protections provided to employees under state and federal law, including guarantee issue to eligible employees of small employers, and the prohibition on discrimination based on health status in enrollment and rates.  |
| 80. | 21.54.500(16) | Amended                       | Technical clean-up.   |
| 81. | 21.59.070     | Amended                       | Adds to the list of statutes applicable to a domestic automobile service corporation requirements to file company information with the director when changes occur in that information and to file biographical affidavits by domestic automobile services corporations when an officer or director is appointed. The director is also given authority to request an affidavit from a foreign automobile service corporation. |
| 82. | 21.66.020     | Amended by new subsection (b) | Adds administrative statutes giving the director authority to take control of a title company deposit held by the director when a title insurer is insolvent, and authority to pay claims with the funds. For a title insurer domiciled in another state, the director shall file for ancillary receivership.   |
|     |               | Amended by new subsection (c) | Adds administrative statutes to specify when title company deposits can be returned to the company by the director.   |
|     |               | Amended by new subsection (d) | Adds references to deposit administration statutes in Chapter 21.24 for administration of deposits of insurance companies with the director. These references include the requirement of a custodial agreement, that the expenses of the deposit account are paid by the company, and neither the director or state is liable for the safekeeping of the deposit.   |
| 83. | 21.66.210(a)  | Amended                       | Adds requirement that an application for a joint title plan must include basic identifying information and location information including an electronic mailing address.  |
| 84. | 21.69.390(d)  | Amended                       | Clarifies that the requirement for maintenance of documents by an Alaska company must include the contract and claim files for insurance and other products sold and is not limited to only risks in the state. The company's documents also must include administrative and management contracts.  |
| 85. | 21.72.170     | Amended                       | Adds to the list of statutes applicable to benevolent associations requirements to file biographical affidavits by domestic benevolent associations when officers and directors change and gives the director   |

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|     |              |                                  | authority to request an affidavit from a foreign association.  |
| 86. | 21.75.060(b) | Amended                          | Adds that an application for licensing of a reciprocal insurer must include the mailing address, electronic mailing address and phone number.  |
| 87. | 21.79.025(a) | Amended                          | Adopts revisions to the Alaska Life and Health Guaranty Association payment limitations by allowing a limit of \$300,000 for long term care insurance and increasing from \$100,000 to \$250,000 the claim limit on annuity benefits. This change is from NAIC model law.  |
| 88. | 21.84.335(b) | Amended                          | Adds to the list of statutes applicable to fraternal benefit societies requirements to file company information with the director when changes occur in that information and to file biographical affidavits by domestic fraternal benefit societies when an officer or director of the insurer is appointed. The director is also given authority to request an affidavit from a foreign fraternal benefit society. |
| 89. | 21.85.030(a) | Amended                          | Allows a multiple employer welfare association to offer disability insurance coverage complying with the insurance statutes or limited short term disability coverage if approved by the director.   |
| 90. | 21.85.040    | Amended                          | Adds requirements for a foreign multiple employer welfare arrangement to file in their license application copies of certificates issued by the domicile state and financial information, analyses, and examination reports filed by the entity in their domicile state.   |
| 91. | 21.86        | Amended by new section 21.86.045 | Adds a requirement that a domestic health maintenance organization must file biographical affidavits when an officer or a director of the organization is appointed. The director is also given authority to request an affidavit from a foreign health maintenance organization.  |
| 92. | 21.87.340    | Amended                          | Adds to the list of statutes applicable to hospital and medical service corporations the requirement comply with the new rate requirements in Sec. 58 and 73.  |
| 93. | 21.96.030    | Amended                          | Will allow for forms of payment other than a negotiable bank check, such as retained asset accounts, if agreed to by the policyholder or beneficiary.  |
| 94. | 21.07.040    | Repealed                         | This section is repealed because confidentiality of health information is addressed in AS 21.36.510 and regulations adopted by the director as required by that statute.   |
|     | 21.07.250(7) | Repealed                         | Term is no longer used   |
|     | 21.07.250(8) | Repealed                         | Term is no longer used   |
|     | 21.07.250(9) | Repealed                         | Term is no longer used   |

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|      | 21.27.020(e)                      | Repealed               | The provision that an individual licensed as an “Individual in a firm” remain licensed while changing employers is no longer required due to the proposal to repeal this license type.                                     |
|      | 21.27.025(b)                      | Repealed               | The requirement to notify the director when individuals leave or join the firm has been eliminated   |
|      | 21.27.340                         | Repealed               | Antiquated requirement to display life or health insurance license is no longer necessary due to electronic access to information.   |
|      | 21.27.900(14)                     | Repealed               | Definition for “Individual in a firm” was repealed, streamlining our license processes by eliminating filing and notification requirements, while moving us towards compliance with national license uniformity standards. |
|      | 21.53.200(5)                      | Repealed               | The definition of policy is already defined in AS 21.90.900 and this is not consistent with that definition.   |
|      | 21.87.190(b)                      | Repealed               | Hospital or medical service corporations will be subject to the new rate requirements in Section 58 and Section 73 and therefore must be deleted.  |
| 95.  | Uncodified Law of State of Alaska | Amended by new section | This section provides a transition period for producers to complete the necessary education course required by Section 72.   |
| 96.  | Uncodified Law of State of Alaska | Amended by new section | Allows the division to start adoption of regulations to implement this act but such regulations cannot be effective before the effective date of the relevant statute.   |
| 97.  | Uncodified Law of State of Alaska | Amended by new section | This section modifies the heading of AS 21.07 because the term managed care is no longer used and modified the heading of AS 21.34.170 to reflect the modification to the reporting requirements.                          |
| 98.  | Effective Date                    | Section 96             | Immediate effective date to start adoption of regulations  |
| 99.  | Effective Date                    | Sections 46-57         | Changes to unauthorized insurers statutes in Chapter 33 and surplus lines insurance statutes in Chapter 34 are effective July 21, 2011   |
| 100. | Effective Date                    | Sections 62, 77        | Effective January 1, 2012  |
| 101. | Effective Date                    | All Sections except 98 | Effective July 1, 2011.  |