

Alaska State Senate

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Senate Labor & Commerce Committee

Senate Bill 107 *Sectional Analysis*

Sec. 1 AS 21.14.010 Risk based capital reports

- Subparagraph (a) is amended as it now eliminates the named insurer types of Life and Health domestic insurer, Property Casualty domestic insurer, or other insurer required by the director; and, uses the all-inclusive terminology of “domestic insurer”. Additional types of insurers included as domestic insurers are fraternal benefit societies and health organizations. Subparagraph (a)(2) includes the replacement of “must” for “shall” for the requirement to file the risk based capital report with the director.

Sec. 2 AS 21.14.030 Regulatory action level event

- Subparagraph (b) is amended with language that better matches the accreditation model act. This section allows the director to hire consultants as necessary to assist in the review of a risk based capital plan or revised risk based capital plan submitted by the insurer to the division, or to assist in the formulating a corrective order for the insurer. It also specifies that the insurer will pay the costs of the consultants as ordered by the director.

Sec. 3 AS 21.14.040 Authorized control level event

- Paragraph (2) removes the statute reference to a hearing because AS 21.06.080 already gives authority for the director to hold hearings for any purpose within the scope of this title.

Sec. 4 AS 21.14.050 Mandatory control level event

- Subsection (a) is amended to add a fraternal benefit society, (Chapter 84 Fraternal Benefit Societies) as being subject to the actions the director may take if a mandatory control level event occurs.
- Subsection (b) is amended to add a fraternal benefit society, (Chapter 84 Fraternal Benefit Societies) as being subject to the actions the director may delay, for up to 90 days, after the mandatory control level event occurs.

Sec. 5 AS 21.14.050

- Subsection (c) is added. It allows the director to permit a property and casualty insurer that is running off its business, by writing no new business and only renewing ongoing business to the extent required by law or by contract, but continuing to collect premiums and pay claims as they come due on existing business to continue its run-off under the director’s supervision without placing the insurer under regulatory control under AS 21.78 – Rehabilitation and Liquidation.

Sec. 6 AS 21.14.060 Risk based capital plan

- Subsection (a) is amended to replace “shall” with “must” and replace “must include” with “includes”.
- Paragraph (a)(3) modifies the requirements for financial results in a risk based capital plan. It includes the model law requirement for projections of at least four years for all insurers except health organizations which have a requirement for projections for at least the next two years.

Sec. 7 AS 21.14.060

- Subsection (f) is added and states that the director may specify in a notification to an insurer of an unsatisfactory or revised plan that the notice constitutes a regulatory action level event subject to the insurer’s right to challenge the unsatisfactory determination under AS 21.14.080.

Sec. 8 AS 21.14.080 Hearings

- Subsection (b) is added to allow 15 days for an insurer to request a hearing after a director’s notice of an adjusted risk based capital report, an unsatisfactory risk based capital plan, a revised risk based capital plan, a regulatory action level event, a corrective order, or an insurer’s failure to adhere to its risk based capital plan that has resulting implications on an insurer’s ability to resolve a company action level event.

Sec. 9 AS 21.14.090 Confidentiality; restrictions on use

- Subsection (a) is amended to include statutory reference to AS 21.06.060 which includes a list of records that are confidential and not open to public inspection. It also removes the provision that prior written consent of the insurer is required to release information or records under this chapter as such records and reports are confidential and may not be released. It is amended to clarify that information in a risk based capital report that is also set forth in an annual report schedule is not confidential. This paragraph also removes references to conditions for release of information by the director that are already covered by AS 21.06.060.

Sec. 10 AS 21.14.100 Penalty for violation

- Subsection (b) is amended to add additional insurer types to the director’s authority to suspend the authority of an insurer to enter into new obligations or issue a new or renewal policy of insurance in this state. The new insurer types covered by this section are fraternal benefit societies (Chapter 84) and health organizations (including health maintenance organizations (Chapter 86) and hospital and medical service corporations (Chapter 87)).

Sec. 11 adds new sections

- AS 21.14.110 Exemptions
 - ✓ Subsection (a) allows the director to exempt from the provisions of AS 21.14 a domestic property and casualty insurer that writes only in Alaska, has direct annual premiums of \$2,000,000 or less and assumes no reinsurance greater than five percent of direct written premiums.
 - ✓ Subsection (b) allows the director to exempt from the provisions of AS 21.14 a domestic health organization that writes direct business only in Alaska, assumes no reinsurance in excess of five percent of direct premiums written and writes direct annual premiums of \$2,000,000 or less; or, is a limited health service organization that covers less than 2,000 lives.
- Sec. 21.14.120 Notices
 - ✓ This section specifies when notices by the director to an insurer that may result in regulatory action under this chapter are effective.

- Sec. 21.14.130 Regulations
 - ✓ This section allows the director to adopt regulations to implement this chapter.

Sec. 12 AS 21.14.200(4) “company action level event”

- Subparagraph (B) adds a fraternal benefit society to the definition and changes the negative trend test description to the product obtained by multiplying the insurer’s authorized control level risk based capital and 3.0 from 250%, to comply with model act language and requirement for the increase in negative trend test.
- Subparagraph (C) specifies that the description of the trend test calculation of a property and casualty insurer or health organization is changed from 300% of its authorized control level risk based capital to the product obtained by multiplying its authorized control level risk based capital and 3.0.

Sec. 13 AS 21.14.200(5) “company action level risk based capital”

- Paragraph (5) changes the expression of the company action level risk based capital to mean the product obtained by multiplying 2.0 and the insurer’s authorized control level risk based capital, from 200%, for consistency with the National Association of Insurance Commissioners Model Act language.

Sec. 14 AS 21.14.200(6) “corrective order”

- Paragraph (6) deletes language “by the insurer” for an order issued by the director specifying action the director has determined is required.

Sec. 15 AS 21.14.200(12) “mandatory control level risk based capital”

- Paragraph (12) amends language changing 70% to the product obtained by multiplying .70 of an insurer’s authorized control level risk based capital to be consistent with National Association of Insurance Commissioners Model Act.

Sec. 16 AS 21.14.200(13) “negative trend”

- Paragraph (13) amends the definition to include a fraternal benefit society.

Sec. 17 AS 21.14.200(16) “regulatory action level event risk based capital”

- Paragraph (16) amends language changing 150% to the product of 1.5 of an insurer’s authorized control level risk based capital to conform to NAIC Model Act language.

Sec. 18 AS 21.14.200(20) “risk based capital instructions”

- Paragraph (20) adds language to clarify that the risk based capital instructions are those most recently adopted by the NAIC which reflects the fact that the instructions are periodically revised.

Sec. 19 AS 21.14.200 new paragraphs added

- Paragraph (22) clarifies that a “fraternal benefit society” has the meaning given in AS 21.84.900.
- Paragraph (23) defines an “insurer” to include a property and casualty insurer, a life and health insurer, a health organization, and a fraternal benefit society.
- Paragraph (24) defines “limited health service organization” to mean a corporation, partnership, or other entity that undertake to provide or arrange for the provision of one or more limited health services to enrollees.

- Paragraph (25) defines “limited health services” to mean dental care services, vision care services, mental health services, substance abuse services, pharmaceutical service, podiatric care services, and other services determined by order or regulation of the director; “limited health services” does not include hospital, medical, surgical, or emergency services except as provided incident to the limited health services as defined in this paragraph.

Sec. 20 AS 21.22.010 Filing requirements for the acquisition of control of or merger with domestic insurer

- Paragraph (a) (1) is amended by adding model act language previously left out of our statute. Existing statute states that “a person” could not file a tender offer for the acquisition of control of a domestic insurer without first filing required information with the director. The amendment clarifies that a “person” may not make a tender or an offer “unless the person is the issuer”.
- Paragraph (a) (2) is amended for consistency with National Association of Insurance Commissioner (NAIC) Model Act, Insurance Holding Company System Regulatory Act to state that “a person” making an offer or entering an agreement to acquire control of a domestic insurer includes “a person controlling a domestic insurer.”

Sec. 21 AS 21.22.010(c)

- This subsection is amended to remove language allowing the director to require other information deemed necessary in connection with a proposal for acquisition of control of a domestic insurer. AS 21.22.020(12) already allows the director to require additional information as necessary or appropriate for the protection of policyholders and security holders of the insurer or in the public interest.

Sec. 22 AS 21.22.010(h)

- This subsection expands the description of a person controlling a domestic insurer to include any securities broker holding more than 20% of the voting securities of an insurer or of a person controlling an insurer.

Sec. 23 AS 21.22.010 is amended to add new subsections:

- Subsection (i) is added to conform to the NAIC Model Act, Insurance Holding Company System Regulatory Act revisions that require a notice to the director seeking approval of a controlling person seeking to divest its controlling interest in a domestic insurer in any manner. The notice must be given at least 30 days prior to cession of control and the information provided is confidential until the conclusion of the transaction. The requirement for notice of divestiture of controlling interest arose from situations where regulators have experienced divestitures that were not in the best interest of the policyholders and where regulators were not given prior notice.

Sec. 24 AS 21.22.020 Content of statement for acquisition or merger filing.

- Subsection (b) adds a new requirement from NAIC Model Act Insurance Holding Company System Regulatory Act for controlling persons to file an annual enterprise risk statement. “Enterprise risk” is a new term that is also used in other revisions within the Model Act. The annual enterprise risk statement is a report by the controlling person which identifies material risks within the insurance holding company system that could pose financial and/or reputational contagion to the insurer and potential sanctions. This change is in response to past economic downturns and worldwide discussions on contagion risk within the financial sector. It is also in response to regulators’ experience regarding the financial impact that non-insurance entities within an insurance group can have on an insurance company’s financial solvency. The change is intended to provide regulators with more information about potential risks to the insurer.
- Subsection (c) expands the definition of “consideration” referenced in (a) (2) of this section to include a pledge of an insurer’s stock or the stock of its subsidiary.

Sec. 25 AS 21.22.030(b)

- Subsection (b) is repealed and reenacted to conform to the NAIC Model Act, Insurance Holding Company System Regulatory Act, that establishes more specific requirements for the timing of the public hearing referenced in AS 21.22.030(a). It also requires that notice of a hearing be made to the person filing the statement for acquisition of control or merger at least 20 days prior to the hearing. The person filing the statement must also give at least seven days' notice to the insurer and any other persons designated by the director. The decision of the director to approve or not approve the acquisition or control or merger must be issued with the 60-day period preceding the effective date of the proposed transaction.

Sec. 26 AS 21.22.030(c)

- Subsection (c) is repealed and reenacted to revise the relevant competitive factors to be considered by the director in evaluating the effect of a merger or other acquisition on the competitive nature of the market and an evaluation of what would be the concentration of the market should an acquisition or merger take place. The current statute stated that the standards under AS 21.22.065(d) (3), (4), or (e) that include aggregate market share factors and standards for concentrations in the market could not be considered. This reenacted section states that the evaluation of standards contained in AS 21.22.065(d) (3), (4), or (e) will apply in evaluating the effect of a merger or other acquisition.
- Paragraph (c) (3) also allows the director to give conditional approval of a merger or other acquisition if a basis for disapproval is removed within a specified period of time.

Sec. 27 AS 21.22.030 is amended to add new subsection

- Subsection (e) allows for consolidated public hearings if a proposed acquisition of control requires more than one insurance regulator if requested by the person filing the change of control statement required in AS 21.22.010. The director may opt out of the consolidated hearing. The director may attend such hearing in person or by telecommunication. The provision conforms to the NAIC model act.

Sec. 28 AS 21.22.060(a)

- Subsection (a) is amended to reference an exemption from filing a registration statement contained in subsection (c) of this section. The amendment also eliminates the current statute provision requiring a registration be filed within 60 days after January 1, 1977 which is outdated.

Sec.29 AS 21.22.060(b)

- Subsection (b) is amended to change “Every insurer” to “An insurer”. Also, the information required to be contained in the registration statement is amended to conform to the NAIC Model Act, Insurance Holding Company System Regulatory Act, as follows:
- Paragraph (b)(2) requires the identity and relationship of every member of the insurance holding company system be included;
- Paragraph (b)(3) adds language that requires information regarding agreements and transactions between affiliates that have occurred in the last calendar year be included in addition to those currently in force.
- Subparagraph (b)(3)(G) adds dividends and other distributions to shareholders to the required information.
- Subparagraph (b)(3)(H) adds consolidated tax allocation agreements to the required information.

- Paragraph (b)(5) adds a pledge of the insurer's stock for a loan to the required information.
- Paragraph (b)(6) provides that the director may request financial statements of or within the insurance holding company system including all affiliates. The purpose of this change was to provide regulators with access to more insurance holding company system information through the filing of holding company financial statements.
- Paragraph (b)(7) requires the boards of directors of insurers to give statements that they are responsible for and oversee corporate governance and internal controls. The officers or senior management also must affirm that they have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures.
- Paragraph (b)(8) allows the director to require other information by rule or regulation.

Sec. 30 AS 21.22.060(c)

- This subsection replaces the language stating that the director may exempt an authorized insurer that is a member of a holding company system subject to registration in its domiciled state, from filing a registration statement in this state, if the director determines that the laws or regulations of its domiciled state are substantially similar to those contained in this chapter. As the NAIC Model Act, Insurance Holding Company System Regulatory Act, is now required in each state for accreditation, it is not necessary for the director to make this determination. The director can still require the insurer to file a copy of the registration, the summary statement and other information filed in its state of domicile if deemed necessary.

Sec. 31 AS 21.22.060(e)

- Subsection (e) is amended to change the time in which an insurer must report dividends and other distributions to shareholders from two business days following their declaration, to 15 days which complies with the NAIC Model Act, Insurance Holding Company System Regulatory Act.

Sec. 32 AS 21.22.060(j)

- Subsection (j) is amended to contain a provision for an insurer to file with the director a disclaimer of affiliation with an authorized insurer. The current statute required no further duty to register or report until the director disallowed the disclaimer. The director could only disallow a disclaimer after giving notice to all parties and an opportunity to be heard. It also required specific findings of fact to support the disallowance.
- The amendment considers a disclaimer of affiliation to be deemed granted unless the director notifies the disclaiming party that the disclaimer is disallowed within 30 days. The disclaiming party may request a hearing under AS 21.06.180. This amendment agrees with the NAIC Model Act, Insurance Holding Company System Regulatory Act, and is a more efficient procedure.

Sec. 33 AS 21.22.060

- Subsection (m) is added and requires an insurer within a holding company system to provide complete and accurate information to another insurer that is needed and necessary for that insurer to comply with the provisions of this chapter.
- Subsection (n) is added and requires the ultimate controlling person of an insurer subject to registration to file an annual enterprise risk report. The report must to such person's knowledge and belief identify material risks within the insurance holding company system that may pose a risk to the insurer. The report must be filed with the lead state insurance regulator of the insurance holding company system.

Sec. 34 AS 21.22.065(d)

- Subsection (d) is amended to establish standards for prima facie evidence of a violation of the competitive standard in an acquisition in which there is a change of control of an insurer authorized to do business in Alaska. If the prima facie evidence creates a violation of the competitive standard or the insurer fails to file adequate information in compliance with (c) of this section the director may issue an order under (b) of this section.

Sec. 35 AS 21.22.080

- Paragraph (4) is amended to clarify that the books and records of each “party” as referenced in current statute are to the books and records of each party to the “transaction”.
- Paragraph (6) is added and states that the standards for agreements for cost sharing services and management between affiliates must include provisions included in regulations adopted by the director.

Sec. 36 AS 21.22.085(a)

- Subsection (a) is amended to clarify that transactions between a domestic insurer and a person in its holding company system that require director approval include amendments or modifications to previously filed affiliate agreements. The insurer must include the reasons for the changes and the financial impact to the domestic insurer. The amendment also includes a requirement to file the notice within 30 days.
- Paragraph (a)(1) is amended to remove a “guarantee” from the included transactions.
- Subparagraphs (a)(1)(A) and (B) and (a)(2)(A) include standards for transactions that require director approval. The calculated standard for determining whether or not a transaction requires director approval is applied to the financial statement amounts reported as of December 31 of the calendar year in which the transaction took place.
- Subparagraphs (a)(3)(A) and (B) are amended to include reinsurance pooling agreements and reinsurance agreements in which the premium or change in liabilities, or the projected reinsurance premium or change in liabilities meets certain standards.
- Paragraph (a)(4) is added to include tax allocation agreements and guarantees.
- Paragraph (a)(6) is added to include a guarantee if made by a domestic insurer if it meets certain qualitative standards.
- Paragraph (a)(7) is added to include direct or indirect acquisitions or investments in a person that controls an insurer or in an affiliate of the insurer in an amount that, together with the person's present holdings in such investment exceeds two and one-half percent of the insurer's surplus to policyholders and defines exemptions from this requirement.

Sec. 37 AS 21.22.110(a) is repealed and reenacted

- Subsection(a) includes additional director’s authority to examine insurers registered under AS 21.22.060 and its affiliates, including the enterprise risk to the insurer by the ultimate controlling party, an entity or combination of entities within the holding company system, or by the insurance holding company system on a consolidated basis.

Sec. 38 AS 21.22.110(b) is repealed and reenacted

- Paragraph (b)(1) gives the director authority to order the production of records in the possession of the insurer.
- Paragraph (b)(2) gives the director authority to order the production of records not in the possession of the insurer if the insurer can reasonably obtain access. If the insurer cannot obtain access to the information, the insurer shall provide a detailed explanation of the reason that the insurer cannot obtain access. The director has authority to assess a penalty of \$250 for each day's delay in providing the information if the explanation is determined to be without merit, or may suspend or revoke the insurer's license.
- Paragraph (b)(3) gives the director authority to examine or issue subpoenas to the insurer's affiliates to obtain the information as deemed necessary.

Sec. 39 AS 21.22.115 Supervisory colleges A new section is added

- Subsection (a) states that the director may participate in a supervisory college for a domestic insurer that is part of an insurance holding company system with international operations to determine compliance with this chapter.
- Paragraphs (a) (1) through (5) specify what the director may do with respect to holding or participating in a supervisory college.
- Subsection (b) states that the insurer subject to this section is liable for and shall pay reasonable expenses for the director's participation in a supervisory college.
- Subsection (c) identifies various ways in which the director may participate in a supervisory college with other regulators including other state, federal and international regulatory agencies. The director may also enter into agreements under AS 21.06.060 and AS 21.22.120 to share confidential information with other regulatory agencies and other members of the supervisory college.
- Nothing in this section delegates to the supervisory college the director's authority to regulate or supervise an insurer or its affiliates.

Sec. 40 AS 21.22.120 is amended

- Holding company analyses and insurer profile summaries are added to the confidentiality standard and are specifically identified as being confidential documents. All information reported under AS 21.22.020(b), AS 21.22.060, and AS 21.22.085 – AS 21.22.105 is given confidential treatment under AS 21.06.060. However, if the director determines that the interests of policyholders, shareholders, or the public would be served by publication of the information, the director may publish all or part of the information after giving notice to the insurer and its affiliates.

Sec. 41 AS 21.22.120 is amended by adding a new subsection

- Paragraph (b)(1) allows the director to share documents or other information including the confidential information under (a) of this section with state, federal and international regulatory agencies, with the NAIC and with state, federal and international law enforcement authorities provided that the recipients agree in writing to maintain the confidentiality of the documents or information.
- Paragraph (b)(2) does not allow the director to share confidential documents, material or information with insurance regulators of other states unless the other state's statutes or regulations are substantially similar to this section; and the other state has agreed in writing not to disclose such information;

- Paragraph (b)(3) the director may enter into a written agreement with the NAIC that governs the sharing and use of information obtained under this chapter. This subsection also includes required content of the written agreement.

Sec. 42 AS 21.22.170 is repealed and reenacted

- This section includes civil penalties for violations.
- Subsection (a) imposes a penalty for failing, without just cause, to file a registration statement to pay \$200 for each day it fails to file the registration. The maximum penalty under this section is \$50,000. The director may reduce the penalty if it is demonstrated to be a financial hardship.
- Subsection (b) imposes penalties on the directors or officers of an insurance holding company system in their individual capacity if they knowingly violate requirements of this section engage in transactions or make investments that have not been properly reported or submitted as required under this chapter. The fine is up to \$50,000 per violation.
- Subsection (c) provides that if an insurer subject to this chapter or a director, officer, employee or agent thereof has engaged in a transaction that is subject to provisions of this chapter for director approval, that is not filed with the division for approval, and would not have been approved had approval been requested, the director may order the insurer to cease and desist any further activity under that transaction or contract. The director may after a hearing, void any contracts and restore the status quo.
- Subsection (d) allows the director to disapprove dividends or distributions or place the insurer under an order of rehabilitation in accordance with AS 21.78.090 if the director has reason to believe a person has violated AS 21.22.010 or AS 21.22.020 that prevents a full understanding of an enterprise risk to an insurer by its affiliates or the holding company system.

Sec. 43 AS 21.22 is amended by adding a new section -AS 21.22.175 Criminal Penalties

- Subsection (a) establishes that it is a class C felony for a willful violation of this chapter.
- Subsection (b) establishes that it is a class C felony to knowingly subscribe to, make or cause to be made a false statement, false report or false filing with the intent to deceive.
- Subsection (c) establishes that an insurer may not pay a fine imposed by a court on a director, officer, employee or agent that is imposed under (a) or (b). The fine must be paid by the person in the person's individual capacity.

Sec. 44 AS 21.22.200(10) is amended

- Paragraph 10 is amended to exclude a joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property from the definition of "person".

Sec. 45 AS 21.22.200 is amended to add new paragraphs

- Paragraph (15) defines "enterprise risk" consistent with the definition of "enterprise risk" in the NAIC Model Act, Insurance Holding Company System Regulatory Act.
- Paragraph (16) defines "supervisory college" consistent with the definition of "supervisory college" in the NAIC Model Act, Insurance Holding Company System Regulatory Act.

Sec. 46 AS 21.23.010 – 21.23.090 Risk Management; Own Risk and Solvency Assessment

This bill section adds a new chapter to AS 21 based on the National Association of Insurance Commissioners' Risk Management And Own Risk And Solvency Assessment Model Act. It is fully expected that the NAIC will vote in 2015 to make adoption of this model act an accreditation requirement. ORSA

represents an important regulatory tool available to the director in evaluating the financial solvency of insurers.

- AS 21.23.010 Risk management framework
 - ✓ This section requires insurers to establish and maintain a risk management framework to assist the insurer to identify, assess, monitor, manage, and report on its material and relevant risks. This requirement may be satisfied if the insurance group of which the insurer is a member maintains a framework that applies to the insurer's operations.
- AS 21.23.020 Own risk and solvency assessment requirement
 - ✓ This section requires that an insurer, or the insurance group in which the insurer is a member, regularly conduct an Own Risk and Solvency Assessment (ORSA) consistent with the NAIC ORSA Guidance Manual. The section requires an ORSA to be conducted annually, or more frequently when there have been significant changes in the insurer's or group's risk profile.
- AS 21.23.030 Own risk and solvency assessment summary report
 - ✓ This section requires that an insurer submit an ORSA summary report upon the director's request and no more often than once per year. The section provides details, including attestation and alternative compliance.
- AS 21.23.040 Exemption
 - ✓ This section specifies exemptions from the ORSA requirements, including exemptions based on the insurer's annual premium levels, those of a group of which the insurer is a member, or a waiver approved by the director. If the insurer is exempt, but the insurance group is not, the report would be required to include every insurer within the group. If the insurance group is exempt and the insurer is not, the only filing required would be that applicable to the individual insurer. The section allows the director to require maintenance of a risk management framework and submission of a report even if an exemption applies, and specifically if an insurer has a risk based capital company action level event under AS 21.14, is impaired or in imminent danger of being impaired or otherwise exhibits qualities of a troubled insurer as determined by the director. An insurer that no longer qualified for an exemption due to changes in premium would have one year following the year the premium threshold in the section is exceeded to comply with the requirements of the chapter.
- AS 21.23.050 Contents of own risk and solvency assessment summary report
 - ✓ This section provides that reports must be prepared by the insurer in a manner consistent with the NAIC ORSA Guidance Manual. The insurer must maintain documentation and supporting information relating to the assessment and make them available on examination or on request of the director.
- AS 21.23.060 Confidentiality
 - ✓ This section specifies that the documents, materials or other information, including the ORSA summary report, obtained by, created by or disclosed to the director or another person under this chapter are confidential and are considered trade secrets and proprietary business information subject to AS 21.06.090 and AS 21.22.120. A third party consultant is subject to the information sharing requirements of AS 21.22.120(b).

- AS 21.23.070 Penalties
 - ✓ This section provides for a penalty of \$1,000 a day for each day the insurer fails to file the report within the time period required in AS 21.23.030(a), not to exceed \$365,000 and allows the director to reduce the penalty if the insurer demonstrates to the director that the imposition of the penalty is a financial hardship to the insurer.

- AS 21.23.080 Regulations
 - ✓ This section authorizes the director to adopt regulations to implement, define, and enforce the provisions of this chapter.

- AS 21.23.090 Definitions
 - ✓ This section defines "insurance group", "insurer", "own risk and solvency assessment", "own risk and solvency assessment guidance manual", and "own risk and solvency assessment summary report" in a manner consistent with the model act. This section also defines "risk management framework" in a manner consistent with the ORSA Guidance Manual as that term is undefined in the model act.

Sec. 47 AS 21.27.570. Operating requirements for controlling insurance producers.

- Subparagraph (a)(3)(A) eliminates the requirement that a controlled insurer terminating a contract for cause must provide the notice of termination to the controlling producer by certified mail. This gives the controlled insurer the flexibility to provide the notice by certified mail, regular mail, delivery, or, if both parties to the contract agree, by electronic means as provided under the state's Uniform Electronic Transactions Act, AS 09.80.

- Subparagraphs (a)(3)(J) and (K) change the term "licensee" to "insurance producer" for internal section consistency.

Sec. 48 AS 21.27.570. Operating requirements for controlling insurance producers.

- A new subsection (i) clarifies that AS 21.22 relating to insurance holding companies applies to all parties within a holding company system subject to this section
- A new subsection (j) is the former AS 21.27.560(f) and is moved to this section to place all provisions (other than definitions) specifically related to controlling insurance producers in one section.

Sec. 49 AS 21.27.900. Definitions.

- Paragraph (8) amends the definition of "controlled insurer" to more closely follow the applicability provisions and definition of the same term in the National Association of Insurance Commissioners (NAIC) Model Act, Business Transacted with Producer Controlled Property/Casualty Insurer Act and makes clear that an admitted controlled insurer domiciled in another state that is not an accredited state having a law substantially similar to the model law, and a risk retention group but not a captive insurer must also comply with the AS 21.27.570.

Sec. 50 AS 21.27.900 Definitions.

- A new paragraph (32) defines "accredited state" consistent with the definition of "accredited state" in the National Association of Insurance Commissioners (NAIC) Model Act, Business Transacted with Producer Controlled Property/Casualty Insurer Act. This definition is added because the term is used in the definition of "controlled insurer".

- A new paragraph (33) defines "captive insurer" consistent with the definition of "captive insurers" in the National Association of Insurance Commissioners (NAIC) Model Act, Business Transacted

with Producer Controlled Property/Casualty Insurer Act. This definition is added because the term is used in the definition of "controlled insurer".

Sec. 51.AS 21.36.360 (q)

- Paragraph (q) (4) is amended to reflect that AS 21.36.360.(h) which describes a fraudulent insurance act that is committed by a person who deliberately perpetrates fraud upon the director under AS 21.22 is repealed as it is no longer necessary per AS.21.22.175 which establishes criminal penalties for a willful violation of Chapter 22 for a Class C felony.

Sec. 52. repeals the following provisions:

- AS 21.14.010(d) providing that an insurer may apply for an exemption from submitting a risk based capital report under the section if the insurer is a domestic insurer that transacts business only in this state and the insurer's total annual written premium plus monetary consideration received on an annuity is less than \$2,000,000 is repealed as Sec 12 of the bill adds a new section covering exemptions from the chapter.
- AS 21.14.010(e) providing that the director shall establish risk based capital instructions by order after an open meeting as provided under AS 44.62.310 is repealed as being unnecessary. Risk based capital instructions are developed by the NAIC. No one has ever appeared or offered testimony when the division has conducted meetings under this provision.
- AS 21.27.560(f) providing for client disclosures by a controlling insurance producer is repealed as the provision is moved and placed under Sec. 50 the bill as a new subsection under the section relating to operating requirements for controlling insurance producers (AS 21.27.570(j)). This is a more logical place for the provision and keeps the model act provisions in one section, other than definitions.
- AS 21.27.570(h)(5) providing for an exemption for risk retention groups from the operating requirements for controlling insurance producers is repealed to meet NAIC accreditation standards.
- AS 21.36.360(h) which describes a fraudulent insurance act that is committed by a person who deliberately perpetrates fraud upon the director under AS 21.22 is repealed as it is no longer necessary per AS.21.22.175 which establishes criminal penalties for a willful violation of Chapter 22 for a Class C felony.

Sec. 53 pertains to revisor's instructions and requests a change to the catch line of AS 21.22.080.

Sec. 54 provides for an effective date of July 1, 2015.