



House Bill No. 78

By the House Rules Committee by Request of the Governor

An Act relating to insurance; relating to insurer's corporate annual disclosure' relating to insurance company holding systems; and providing for an effective date.

**Section 1 adds new sections to AS 21.09**

AS 21.09.330. Corporate governance annual disclosure scope

- The section makes clear the corporate governance annual disclosure provisions do not prescribe or impose a corporate governance standard or internal procedure beyond that which is required under applicable state corporate law; that the provisions do not limit the director's authority, or the rights or obligations of a third party; and that the provisions apply to insurers domiciled in this state.

AS 21.09.332. Disclosure requirement

- Subsection (a) requires insurers (the term "insurer" and "insurers" includes insurance groups) to submit to the director by June 1 of each calendar year a corporate governance annual disclosure, and, if the insurer is a member of an insurer group, to the lead state regulator of the insurance group.
- Subsection (b) requires the disclosure to be signed by the CEO or corporate secretary indicating the insurer has implemented the corporate governance practices required under the disclosure provisions and that the disclosure has been provided to the insurer's board of directors or to the appropriate committee of the board.
- Subsection (c) provides the director may require an insurer to submit a disclosure if the insurer is not already required to do so under (a) of this section.
- Subsection (d) details the levels of corporate governance at which the insurer may provide the information regarding its disclosure.
- Subsection (e) encourages the insurer to make its disclosure at a level based on specified criteria. If the insurer utilizes the criteria the entity must so indicate to the director and must also explain any subsequent change in the level of reporting.
- Subsection (f) provides that disclosures are to be reviewed and any requests for information are to be made through the lead state in accordance with the most recent NAIC Financial Analysis Handbook.
- Subsection (g) allows an insurer to reference other documents provided to the director containing information required in the disclosure without having to duplicate the information in the disclosure provided the disclosure provides for a cross-reference of the document in which the information is included.

AS 21.09.334. Regulations and orders

- The section authorizes the director to adopt regulations substantially similar to the NAIC model regulation (MDL 306 *Corporate Governance Annual Disclosure Model Regulation*) which sets forth the procedures for filing and the required contents of the annual disclosure considered necessary by the director to carry out the provisions of the model law.

AS 21.09.336. Contents of corporate governance annual disclosure

- Subsection (a) gives the insurer discretion in responding to annual disclosure inquiries so long as the information provided gives the director what is needed to gain an understanding of the insurer's corporate governance structure, policies, and practices. The subsection also gives the director the authority to request additional information to obtain a clear understanding of the insurer's corporate governance policies, reporting or information system, or controls.
- Subsection (b) requires the insurer to prepare its annual disclosure consistent with regulations adopted by the director, to maintain documents and information used in preparing the disclosure, and make the documents and information available to the director upon an examination by the division or request of the director.

AS 21.09.338. Confidentiality

- The section provides for the confidentiality of documents, materials, and other information obtained or created by the Division of Insurance.

AS 21.09.340. National Association of Insurance Commissioners and third-party consultants

- Subsection (a) gives the director authority to retain at the insurer's expense experts as may be reasonably necessary to assist the director in reviewing the insurer's annual disclosure and related information, or the insurer's compliance with the annual disclosure statute provisions.
- Subsection (b) makes clear the experts retained under subsection (a) act in an advisory capacity and are under the control and direction of the director.
- Subsection (c) provides that the NAIC and third-party consultants are subject to the same confidentiality standards and requirements as the director.
- Subsection (d) requires a third-party consultant to verify to the director in writing that it is free of a conflict-of-interest and has internal procedures in place to monitor compliance with a conflict and to comply with the confidentiality standards and requirements under the annual disclosure statute provisions.
- Subsection (e) requires that the written agreement, with the NAIC, a third-party consultant, or both governing the sharing or use of information, must contain specified provisions relating to confidentiality, ownership and storing of information, notice of requests for information, intervention of an insurer in an action where information may be disclosed, and written consent of the insurer before information is made public under the annual disclosure statute provisions.
- Subsection (f) provides for a penalty of \$1,000 a day for each day an insurer fails to file without just cause its annual disclosure when required up to a maximum of \$365,000.

**Section 2 amends AS 21.22.085(a)**

AS 21.22.085. Transactions involving a domestic insurer requiring director review

- Amends subsection (a) amends to apply the requirements of the section to transactions that occurred the previous December 31 rather than the calendar year in which the transaction took place. The change is necessary as the director would not have all the information necessary to calculate a transaction given the timing of when an insurer is required to provide information to the director for review.

### **Section 3 amends AS 21.22.120(a)**

#### **AS 21.22.120(a). Confidentiality**

- Amends AS 21.22.120(a) to provide confidential treatment to information and documents obtained by or disclosed to the director or any other person during an examination for investigation.

### **Section 4 adds new subsections to AS 21.22.120**

#### **AS 21.22.120. Confidentiality**

- Subsection (c) prohibits the director or any person receiving confidential documents while acting under the authority of the director from testifying in a private action concerning confidential documents subject to subsection (a) of the section.
- Subsection (d) clarifies that the sharing of information by the director under AS 21.22 does not constitute a delegation of regulatory authority or rulemaking and that the director is solely responsible for the administration, execution, and enforcement of this chapter.
- Subsection (e) provides there is no waiver of any applicable privilege or claim of confidentiality as a result of the disclosure of documents to the director or as a result of sharing of documents under subsection (b) of the section.
- Subsection (f) provides that documents in the possession or control of the NAIC are confidential by law, not subject to AS 40.25.110 – 40.25.220, to subpoena, or to discovery, or admissible in evidence in any private action.

### **Section 5 adds new sections to AS 21.22**

#### **AS 21.22.177. Group-wide supervision of internationally active insurance groups.**

- Subsection (a) authorizes the director to act as the group-wide supervisor for an internationally active insurance group and provides situations where the director may otherwise acknowledge another regulatory official as the group-wide supervisor. The subsection also provides that an insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the director make a determination or acknowledgement as to a group-wide supervisor under this section.
- Subsection (b) requires the director, in cooperation with other state, federal, and international regulatory agencies to identify a single group-wide supervisor for an internationally active insurance group and that the director may determine the director is the appropriate person to be the group-wide supervisor or may acknowledge a regulatory official from another jurisdiction as the appropriate group-wide supervisor. The subsection also identifies the factors to be used by the director in making these determinations and acknowledgements.
- Subsection (c) requires the director to acknowledge when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, however, the director may make a determination or acknowledgement as to the appropriate group-wide supervisor in the event of a material change in the internationally active insurance group that results in the group's insurers domiciled in this state holding the largest share of the group's premiums, assets, or liabilities or this state being the place of domicile of the top-tiered insurer or insurers in the holding company system of the group.
- Subsection (d) gives the director the authority to collect information from an insurer registered under AS 21.22.060 necessary to determine whether the director may act as the group-wide supervisor or may acknowledge another regulatory official to act as the group-wide supervisor.

The director must notify the registered insurer and the ultimate controlling person within the group before issuing a determination that the group is subject to group-wide supervision.

- Subsection (e) sets forth the authorities the director has when the director is the group-wide supervisor for an internationally active insurance group including assessing the group's enterprise risks, requesting information, coordinating with other regulatory officials to ensure the group is able to timely recognize and mitigate enterprise risks, communicate and share information subject to confidentiality under AS 21.22.120, enter into agreements providing a basis for, or otherwise clarifying the director's role as group-wide supervisor including provisions for resolving disputes with other regulatory officials, and other group-wide supervision activities consistent with the section.
- Subsection (f) provides that if the director acknowledges another regulatory official as the group-wide supervisor and the official is from a jurisdiction not accredited by the NAIC, the director may reasonably cooperate with the group-wide supervision undertaken by the official provided the director's cooperation is in compliance with the laws of Alaska and the official recognizes and cooperates with the director when the director is a group-wide supervisor. If the cooperation is not reasonably reciprocal, the director may refuse recognition and cooperation.
- Subsection (g) authorizes the director to enter into agreements with, or obtain documentation from, an insurer registered under AS 21.22.060, an affiliate of the insurer, and other state, federal, and international regulatory agencies for members of the internationally active insurance group, that provide a basis for, or otherwise clarify, a regulatory official's role as group-wide supervisor.
- Subsection (h) makes a registered insurer subject to liability and payment of the reasonable expenses of the director's participation in the administration of this section, including the engagement of attorneys, actuaries, and other professionals, and all reasonable travel expenses.

#### **Section 6 adds new sections to AS 21.22.200**

AS 21.22.200 is amended by adding new paragraphs to read:

- "group-wide supervisor" means the regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is determined or acknowledged by the director under AS 21.22.177 to have sufficient significant contacts with the internationally active insurance group.
- "internationally active insurance group" means an insurance holding company system that includes an insurer registered under AS 21.22.060 and that meets the following criteria:
  - insurers that are part of the insurance holding company system write premiums in at least three countries;
  - the percentage of gross premiums written outside the United States is at least 10 percent of the insurance holding company system's total gross written premiums; and
  - based on a three-year rolling average, the total assets of the insurance holding company system are at least \$50,000,000,000 or the total gross written premiums of the insurance holding company system are at least \$10,000,000,000.

#### **Section 7 amends an uncodified law**

Transition: Regulations

- The director may adopt regulations necessary to implement this bill.

#### **Section 8 defines the effective date**

- This Act is effective immediately.

