

HOUSE CS FOR CS FOR SENATE BILL NO. 53(L&C) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Amended: 5/9/95

Offered: 5/6/95

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to insurance; amending Alaska Rule of Civil Procedure 45;**
2 **and providing for an effective date."**

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

4 *** Section 1.** AS 06.20.260(a) is amended to read:

5 (a) A further or other charge or amount for an examination, service, brokerage
6 commission, expense, fee, bonus, or other thing may not be directly or indirectly
7 charged, contracted for, or received except

8 (1) lawful fees actually paid out by the licensee to a public officer for
9 filing, recording, or releasing any instrument securing the loan, or for transferring
10 certificate of title to a motor vehicle securing the lien or noting a lien on that
11 certificate;

12 (2) premiums actually paid out for insurance on any one or combination
13 of the following: pledged property of the borrower, or consumer credit [LIFE]
14 insurance; in this paragraph "consumer credit insurance" has the meaning given

1 **in AS 21.57.160** [ON THE LIFE OF ONE OR MORE BORROWERS, CREDIT LOSS
2 OF INCOME INSURANCE, OR CREDIT DISABILITY INSURANCE TO PROVIDE
3 INDEMNITY FOR PAYMENTS BECOMING DUE ON THE INDEBTEDNESS];

4 (3) taxable costs and expenses to which the licensee becomes entitled
5 under general law in any court proceedings to collect a loan or to realize on the
6 security after default;

7 (4) reasonable fees paid by a licensee for appraisals, surveys, and title
8 insurance or reports if the loan is secured by an interest in real estate;

9 (5) a late payment fee of not more than 10 percent of the payment that
10 is due or \$15, whichever is less.

11 * **Sec. 2.** AS 06.20.287(a) is amended to read:

12 (a) A licensee may obtain **consumer** credit [LIFE, CREDIT DISABILITY,]
13 and property insurance on open-end loans under this chapter. The **consumer** credit
14 [LIFE AND CREDIT DISABILITY] insurance obtained by a licensee shall satisfy the
15 requirements of AS 21.57. The property insurance obtained by a licensee shall satisfy
16 the requirements of AS 21.39 and AS 21.42. The licensee shall comply with
17 AS 21.36.160 and 21.36.165 during all transactions with borrowers involving
18 **consumer** credit [LIFE, CREDIT DISABILITY] and property insurance.

19 * **Sec. 3.** AS 21.03.010 is amended by adding a new subsection to read:

20 (c) A person who transacts insurance in this state, or relative to a subject
21 resident, located, or to be performed in this state as or on behalf of a risk retention
22 group or purchasing group formed under and in compliance with 15 U.S.C. 3901 -
23 3906 (Liability Risk Retention Act), shall comply with the provisions of this title not
24 preempted by federal law.

25 * **Sec. 4.** AS 21.03.060 is amended to read:

26 Sec. 21.03.060. PRE-EMPTION. The state hereby pre-empts the field of
27 regulating insurers and their **managing** general agents, **insurance producers**
28 [AGENTS], and representatives. All political subdivisions of the state, including home
29 rule boroughs or cities, are prohibited from requiring of an insurer, **managing** general
30 agent, **insurance producer** [AGENT], or representative regulated under this title an
31 authorization, permit, or registration of any kind for conducting transactions lawful

1 under the authority granted by the state under this title.

2 * **Sec. 5.** AS 21.06.080 is amended by adding a new subsection to read:

3 (e) If the director determines that a catastrophe has occurred in this state and
4 in good faith believes that the governor or the President of the United States has issued
5 or is about to issue a declaration of disaster, the director may take the action that the
6 director considers necessary to assure that a contract of insurance already issued will
7 be honored under the terms of the contract. Actions that the director may take include
8 emergency orders permitting the immediate licensing of adjusters to facilitate handling
9 of claims, permitting a licensee to open or close an office, permitting a licensee to
10 move or remove a record as required by the existence of the catastrophe, or permitting
11 the issuance by an insurer of checks or drafts drawn on an out-of-state bank in
12 payment of a claim. Until a declaration of the disaster has been lifted, the director
13 may take action to respond to a disaster without a hearing. An action taken under this
14 subsection may not remain in effect more than six months from the date that the
15 director determines that a catastrophe has occurred unless, after a hearing, the director
16 determines that the action is still necessary to respond to the disaster.

17 * **Sec. 6.** AS 21.06.120(c) is amended to read:

18 (c) In place of an examination by the director, the director may accept a full
19 report of the last recent examination of a foreign or alien insurer, certified to by the
20 insurance supervisory official of another state, territory, commonwealth, or district of
21 the United States. **The director may require that the** [IF]

22 (1) [THE] insurance regulatory agency conducting the examination **be**,
23 [WAS] at the time of the examination, accredited by the National Association of
24 Insurance Commissioners;

25 (2) [THE] examination **be** [IS] performed under the supervision of an
26 insurance regulatory agency accredited by the National Association of Insurance
27 Commissioners; and the supervising examiner, after a review of the examination work
28 papers and report, **state** [STATES] under oath that the examination and report comply
29 with the standards and procedures required by their accredited state insurance
30 regulatory agency; or

31 (3) [THE] examiner conducting the examination **be** [WAS] employed

1 by an insurance regulatory agency accredited at the time of the examination by the
2 National Association of Insurance Commissioners and **that** the examiner, after review
3 of the examination work papers and report, **state** [STATES] under oath that the
4 examination and report comply with the standards and procedures required by the
5 accredited insurance regulatory agency.

6 * **Sec. 7.** AS 21.06.150(g) is amended to read:

7 (g) The director may withhold a document, information, account, record,
8 examination, or report from the public inspection for as long as the director finds the
9 withholding is necessary to protect a person against unwarranted injury or is in the
10 public interest. **The director may close an examination hearing to the public when**
11 **the director finds the closure is necessary to protect a person against unwarranted**
12 **injury or is in the public interest.** The director may publish the examination report
13 or a summary of it in a newspaper in the state if the director determines that the
14 publication is in the public interest.

15 * **Sec. 8.** AS 21.09.110 is amended to read:

16 Sec. 21.09.110. APPLICATION FOR CERTIFICATE OF AUTHORITY. To
17 apply for an original certificate of authority an insurer shall file with the director its
18 application, [(] accompanied by the applicable fees set under AS 21.06.250, [)]
19 showing its name, location of its home office, or principal office in the United States
20 [(] if an alien insurer [)], kinds of insurance to be transacted, date of organization or
21 incorporation, form of organization, state or country of domicile, and additional
22 information that the director may reasonably require, together with the following
23 documents, as applicable:

24 (1) if a foreign insurer, a copy of its corporate charter or articles of
25 incorporation, with all amendments certified by the public officer with whom the
26 originals are on file in the state or country of domicile;

27 (2) if a reciprocal insurer, copies of the power of attorney of its
28 attorney-in-fact and of its subscribers' agreement, if any, certified by its
29 attorney-in-fact;

30 (3) a copy of its financial statement as of the preceding December 31,
31 and all subsequent quarterly financial statements, sworn to by at least two executive

1 officers of the insurer, or certified by the public insurance supervisory official of the
2 insurer's state of domicile or of entry into the United States;

3 (4) a copy of the report of last examination, if any, made of the insurer,
4 certified by the insurance supervisory official of its state of domicile or of entry into
5 the United States;

6 (5) appointment of the director under AS 21.09.180, as its attorney to
7 receive service of legal process;

8 (6) if a foreign or alien insurer, a certificate of the public official
9 having supervision of insurance in its state or country of domicile, or state of entry
10 into the United States, showing that it is authorized to transact the kinds of insurance
11 proposed to be transacted in this state;

12 (7) if an alien insurer, a copy of the appointment and authority of its
13 United States manager, certified by its officer having custody of its records; **and**

14 (8) if a foreign insurer, a certificate as to deposit if it is to be tendered
15 under AS 21.09.090 [;

16 (9) SPECIMEN COPIES OF POLICIES PROPOSED TO BE
17 OFFERED IN THIS STATE IF THEN AVAILABLE, TOGETHER WITH
18 PREMIUMS OR PREMIUM RATES APPLICABLE IF THEN KNOWN, OR A
19 DECLARATION THAT THE RATES AS APPLICABLE WILL BE THOSE
20 PROMULGATED BY DESIGNATED RATING ORGANIZATIONS AUTHORIZED
21 TO FILE RATES IN THIS STATE ON BEHALF OF THE INSURER OR BY THE
22 INSURER].

23 * **Sec. 9.** AS 21.09.110 is amended by adding a new subsection to read:

24 (b) Policy forms and rates that require approval under AS 21.39 or AS 21.42
25 shall be submitted under AS 21.39.040(j) or AS 21.42.120(g) and may not be
26 submitted with the application for a certificate of authority.

27 * **Sec. 10.** AS 21.09.130(b) is amended to read:

28 (b) If not continued by the insurer, its certificate of authority **shall be**
29 **suspended** [EXPIRES] at midnight on June 30 following the failure of the insurer to
30 continue it in force. **The certificate of authority shall expire on June 30 one year**
31 **following its suspension due to failure to continue the certificate of authority.** The

1 director shall promptly notify the insurer of the occurrence of a failure **that may result**
2 **in suspension** [RESULTING IN IMPENDING EXPIRATION] of its certificate of
3 authority.

4 * **Sec. 11.** AS 21.09 is amended by adding a new section to read:

5 Sec. 21.09.135. VOLUNTARY SURRENDER OF CERTIFICATE OF
6 AUTHORITY. (a) A foreign admitted insurer may apply for voluntary surrender of
7 its certificate of authority and the director may accept the application, if the foreign
8 admitted insurer

9 (1) is in compliance with the applicable sections of this title, or the
10 director waives in writing each condition of noncompliance;

11 (2) provides written confirmation that obligations incurred before the
12 voluntary surrender of the certificate of authority shall be paid to guarantee funds or
13 insurance pools established by law; and

14 (3) is domiciled in a state that is

15 (A) accredited by the National Association of Insurance
16 Commissioners at the time of the request for voluntary surrender; or

17 (B) not accredited by the National Association of Insurance
18 Commissioners at the time of the request and agrees in writing to be subject
19 to

20 (i) AS 21.09.200 and 21.09.205 for a period of two
21 years, including payment of any fee related to filing information with
22 the director; and

23 (ii) any other provision of this title that may be required
24 in writing by the director and for the period of time the director may
25 specify.

26 (b) If a foreign admitted insurer who surrenders a certificate of authority
27 ceases to exist, all business written and in force relative to a risk resident, located, or
28 to be performed in this state shall be lawfully cancelled or reinsured. A reinsurance
29 agreement covering all or a part of a risk described in this subsection shall be
30 approved by the director before accepting the certificate of authority for surrender if
31 the agreement meets the following criteria:

1 (1) insurance coverage has not deteriorated from the policies existing
2 at the time of the transfer;

3 (2) the assuming insurer is of equal or better financial standing; and

4 (3) the assuming insurer is admitted to do business in this state, unless
5 this requirement is waived by the director.

6 * **Sec. 12.** AS 21.09.200(f) is amended to read:

7 (f) In addition to the requirements of (a) of this section, **an authorized** [A
8 DOMESTIC] insurer shall file its annual statement with the National Association of
9 Insurance Commissioners **on electronic media acceptable to the association** by the
10 due date established by the association, and shall pay the applicable filing fee. **The**
11 **director may waive the filing requirement if the insurer only transacts business**
12 **in this state and only accepts risks relative to a subject resident, located, or to be**
13 **performed in this state.** An insurer that fails to comply with this subsection is
14 subject to the penalties specified in (e) of this section, calculated from the filing and
15 fee due date established by the National Association of Insurance Commissioners.

16 * **Sec. 13.** AS 21.09.205 is amended by adding a new subsection to read:

17 (d) In addition to the requirements of (a) of this section, an authorized insurer
18 shall file its quarterly statement with the National Association of Insurance
19 Commissioners on electronic media acceptable to the association by the due date
20 established by the association, and shall pay the applicable filing fee. The director
21 may waive the filing requirement if the insurer only transacts business in this state and
22 only accepts risks relative to a subject resident, located, or to be performed in this
23 state. An insurer that fails to comply with this subsection is subject to the penalties
24 specified in (c) of this section, calculated from the filing and fee due date established
25 by the National Association of Insurance Commissioners.

26 * **Sec. 14.** AS 21.09.210 is amended by adding new subsections to read:

27 (k) If, within three years after the date the tax under this section was due, an
28 insurer discovers a mistake or misinterpretation that resulted in an overpayment of the
29 tax in an amount exceeding \$250 in any one calendar year, the insurer may make a
30 written request to the director for a refund. If the director determines a valid mistake
31 or misinterpretation has occurred, the director shall refund to the insurer the amount

1 of the excess tax by granting, at the director's discretion, a monetary refund or
2 premium tax credit. A premium tax credit shall be used in the next calendar year to
3 the extent possible and any unused credit shall be paid as a monetary refund. A
4 premium tax credit may not reduce the payable tax, calculated without use of the
5 credit, to less than zero.

6 (l) A premium tax credit granted under (k) of this section may not carry over
7 as an attribute in a transaction under AS 21.69.610, 21.69.620, AS 21.78, or a similar
8 transaction entered into by a foreign insurer.

9 (m) In this section, "premium tax credit" means an amount that an insurer may
10 use as an offset against a premium tax payment.

11 * **Sec. 15.** AS 21.09.250 is amended to read:

12 Sec. 21.09.250. PROHIBITED ACTS. An insurer doing business in this state
13 may not make, write, place, or cause to be made, written, or placed in this state a
14 policy, duplicate policy, or contract of insurance of any kind or character, or general
15 or floating policy upon persons or property resident, situated, or located in this state,
16 from or through a [BROKER, AGENT, GENERAL AGENT, SURPLUS LINE
17 BROKER, OR] person **required to be licensed** who has not secured a license in this
18 state. An insurer may not pay a commission or any form of remuneration to a person,
19 firm, or organization for the writing or placing of insurance coverage in this state
20 unless that person, firm, or organization holds a license issued by the director.

21 * **Sec. 16.** AS 21.09 is amended by adding new sections to read:

22 Sec. 21.09.290. RISK RETENTION GROUPS. (a) A risk retention group
23 formed in this state shall

24 (1) comply with 15 U.S.C. 3901 - 3906 (Liability Risk Retention Act);
25 and

26 (2) qualify for and hold in good standing a certificate of authority under
27 this chapter, limited to liability insurance only.

28 (b) A risk retention group shall submit with its application for a certificate of
29 authority

30 (1) the identity of

31 (A) the initial members of the risk retention group;

1 (B) all persons who organized the risk retention group;
2 (C) all persons who will provide administrative services to the
3 risk retention group;
4 (D) all persons who will influence or control the activities of
5 the risk retention group;
6 (2) the amount and nature of initial capitalization;
7 (3) a plan of operation or a feasibility study that includes the coverage,
8 deductible, coverage limit, rate, and rating classification system for the type or class
9 of liability insurance the group intends to offer; and
10 (4) the states in which the risk retention group intends to operate.
11 (c) At least 30 days before a domestic risk retention group implements a
12 material change or revision to an approved plan of operation or feasibility study, the
13 material change or revision shall be filed with the director. A material change or
14 revision may not be implemented unless the domestic risk retention group receives the
15 director's written approval. In this subsection, "material change or revision" includes
16 an offering of an additional type or class of liability insurance.
17 (d) In this section,
18 (1) "liability" means legal liability for damages, including costs of
19 defense, legal costs and fees, and other claims expenses, because of injury to another
20 person, damage to property, or other damage or loss to a person resulting from or
21 arising out of a business, whether profit or nonprofit, trade, product, service, including
22 a professional service, or an activity of a state or local government, or an agency or
23 political subdivision of a state or local government; "liability" does not include
24 personal risk liability or employer's liability with respect to its employees other than
25 legal liability under 45 U.S.C. 51 (Federal Employers' Liability Act);
26 (2) "personal risk liability" means liability for damages because of
27 injury to a person, damage to property, or other loss or damage resulting from a
28 personal, familial, or household responsibility or activity and that is not a responsibility
29 or activity described under (1) of this subsection.
30 Sec. 21.09.300. DISCLOSURE OF MATERIAL TRANSACTIONS. (a) A
31 domestic insurer shall file a report with the director disclosing a material acquisition

1 and disposition of assets or a material nonrenewal, cancellation, or revision of ceded
2 reinsurance agreements unless the acquisition and disposition of assets or material
3 nonrenewal, cancellation, or revision of ceded reinsurance agreements have been
4 submitted to the director for review, approval, or information purposes as required by
5 this title.

6 (b) The report required under (a) of this section is due 15 days after the end
7 of the calendar month in which a reportable transaction occurs.

8 (c) Except as provided in this section, a report obtained by or disclosed to the
9 director under this section is confidential, is not subject to subpoena, and may not be
10 made public by the director, or another person, without the prior written consent of the
11 insurer submitting the report. A report under this section may be disclosed to an
12 insurance regulatory agency of another state or to the National Association of
13 Insurance Commissioners, with notice of the disclosure sent to the insurer. If the
14 director, after giving an insurer notice and an opportunity to be heard, determines that
15 the interest of policyholders, shareholders, or the public will be served by publication
16 of the report, the director may publish all or any part of the report in a manner the
17 director determines appropriate.

18 (d) A domestic insurer's report of an acquisition or disposition of an asset

19 (1) shall be made under (a) of this section if the acquisition or
20 disposition is material; for purposes of this subsection, an acquisition or disposition,
21 or the aggregate of a series of related acquisitions or related dispositions during any
22 30-day period is material if it is nonrecurring, not in the ordinary course of business,
23 and involves more than five percent of the reporting insurer's total admitted assets as
24 reported in its most recent financial statement required by law that is filed with the
25 division;

26 (2) shall be made on asset acquisition, including a purchase, lease,
27 exchange, merger, consolidation, succession, or other acquisition other than the

28 (A) construction or development of real property by or for the
29 reporting insurer; or

30 (B) acquisition of material for construction or development of
31 real property;

1 (3) shall be made on asset disposition including a sale, lease, exchange,
2 merger, consolidation, mortgage, hypothecation, assignment for the benefit of creditors,
3 or abandonment;

4 (4) must include information on the

5 (A) date of transaction;

6 (B) manner of acquisition or disposition;

7 (C) description of the assets involved;

8 (D) nature and amount of the consideration given or received;

9 (E) purpose of, or reason for, the transaction;

10 (F) manner by which the amount of consideration was
11 determined;

12 (G) gain or loss recognized or realized as a result of the
13 transaction; and

14 (H) names of persons from whom the assets were acquired or
15 to whom the assets were disposed.

16 (e) A domestic insurer's report of nonrenewal, cancellation, or revision of a
17 ceded reinsurance agreement

18 (1) shall be made under (a) of this section if the nonrenewal,
19 cancellation, or revision is material; for purposes of this subsection, a material
20 nonrenewal, cancellation, or revision is one that affects (A) for property and casualty
21 business, including accident and health business when written as property and casualty
22 business, more than 50 percent of an insurer's ceded written premium; or (B) for life,
23 annuity, and accident and health business, more than 50 percent of the total reserve
24 credit taken for business ceded, on an annualized basis as indicated in the insurer's
25 most recently filed statutory statement; however, a filing is not required if the insurer's
26 ceded written premium or the total reserve credit taken for business ceded represents,
27 on an annual basis, less than 10 percent of direct written premiums and assumed
28 written premiums or 10 percent of the statutory reserve requirement before a cession;

29 (2) shall be filed without regard to which party has initiated the
30 nonrenewal, cancellation, or revision of ceded reinsurance whenever any of the
31 following conditions exist:

1 (A) the entire cession has been cancelled, nonrenewed, or
2 revised and ceded indemnity and loss adjustment expense reserves after a
3 nonrenewal, cancellation, or revision represent less than 50 percent of the
4 comparable reserves that would have been ceded had the nonrenewal,
5 cancellation, or revision not occurred;

6 (B) an admitted or accredited reinsurer has been replaced on an
7 existing cession by an unauthorized reinsurer; however, a report shall be filed
8 only if the result of the revision affects more than 10 percent of the cession;
9 or

10 (C) collateral requirements previously established for
11 unauthorized reinsurers have been reduced; however, a report shall be filed
12 only if the result of the revision affects more than 10 percent of the cession;
13 and

14 (3) must include

15 (A) the effective date of the nonrenewal, cancellation, or
16 revision;

17 (B) a description of the transaction with an identification of the
18 initiator of the transaction;

19 (C) the purpose of, or reason for, the transaction; and

20 (D) if applicable, the identity of the replacement reinsurers.

21 (f) An insurer is required to report under (a) of this section on a
22 nonconsolidated basis unless the insurer is part of a consolidated group of insurers that
23 utilizes a pooling arrangement or 100 percent reinsurance agreement that affects the
24 solvency and integrity of the insurer's reserves and the insurer ceded substantially all
25 of its direct and assumed business to the pool. An insurer is presumed to have ceded
26 substantially all of its direct and assumed business to a pool if the insurer has less than
27 \$1,000,000 total direct written premiums and assumed written premiums during a
28 calendar year that is not subject to a pooling arrangement and the net income of the
29 business not subject to the pooling arrangement represents less than five percent of the
30 insurer's capital and surplus.

31 Sec. 21.09.310. AUTHORIZATION OF UNITED STATES BRANCHES OF

1 ALIEN INSURERS AND GENERAL REQUIREMENTS. (a) This section applies
2 to all United States branches of alien insurers using this state as a state of entry to
3 transact the business of insurance in the United States. Except as provided elsewhere
4 in this title, a United States branch is subject to all state laws applicable to an insurer
5 domiciled in this state.

6 (b) An alien insurer may apply for a certificate of authority to use this state
7 as a state of entry to transact the business of insurance in the United States by

8 (1) qualifying as an insurer licensed to do business in this state;

9 (2) establishing a trust under a trust agreement approved in writing by
10 the director with a United States bank acceptable to the director in an amount not less
11 than the greater of

12 (A) the minimum basic capital or basic guarantee surplus and
13 additional maintained surplus required under AS 21.09.070; or

14 (B) the authorized control level risk based capital under
15 AS 21.14;

16 (3) submitting a copy of its charter and bylaws, if any, currently in
17 force, and other documents necessary to show the kind of business it is authorized to
18 transact in its domiciliary jurisdiction; documents submitted under this paragraph must
19 be attested to as accurate and complete by the insurance supervisory official in the
20 domiciliary jurisdiction, and must include an English translation, if in a language other
21 than English;

22 (4) submitting a full statement, subscribed and affirmed as true by two
23 officers or equivalent responsible representatives in a manner that the director
24 prescribes, of its financial condition as of the close of its latest fiscal year, showing
25 its assets, liabilities, income disbursements, business transacted, and other facts
26 required to be shown in its annual statement, as reported to the insurance supervisory
27 official in its domiciliary jurisdiction; all documents submitted under this paragraph
28 must include an English translation if in a language other than English;

29 (5) submitting to an examination under AS 21.06.120(b) at its principal
30 office within the United States, and elsewhere if necessary, unless the director accepts
31 a report of the insurer's recent examination and the report has been certified by the

1 insurance supervisory official of the insurer's domiciliary jurisdiction; and

2 (6) payment of fees established under AS 21.06.250.

3 (c) Before issuing or renewing a certificate of authority for a United States
4 branch, the director may require satisfactory proof that the insurer does not intend to
5 transact insurance business in violation of the provisions of this title or that is not
6 authorized by its charter. Proof required under this subsection may include the alien
7 insurer's charter, an agreement evidenced by a duly certified resolution of its board of
8 directors, or other proof that the director may require.

9 (d) The director may renew a certificate of authority for a United States branch
10 if satisfied, by proof the director may require, that the insurer is not delinquent with
11 respect to a requirement or qualification imposed by this title and that its continuance
12 to transact the business of insurance in this state will not be hazardous or prejudicial
13 to the best interest of the people of this state.

14 (e) A United States branch may not receive or renew a certificate of authority
15 in this state

16 (1) to transact a kind of insurance or a combination of kinds of
17 insurance that are not permitted to be transacted by domestic insurers in this state;

18 (2) if it transacts business other than the business of insurance
19 anywhere else within the United States unless the business, in the opinion of the
20 director, is necessarily or properly incidental to the kind of insurance that it is
21 authorized to transact in this state;

22 (3) if it fails to keep full and correct entries of its transactions; records
23 of entries shall at all times be maintained in its principal office within this state; or

24 (4) if it fails to comply with a requirement or limitation of this title that
25 it is not exempted from by another provision of this title and that is applicable to
26 similar domestic insurers and if, in the judgment of the director, the requirement or
27 limitation is necessary to protect the interest of the policyholders.

28 (f) A United States branch that transacts a kind or combination of kinds of
29 insurance outside this state that is not permitted to be done in this state by similar
30 domestic insurers may not have a certificate of authority issued or renewed in this state
31 unless, in the judgment of the director, the transaction of that kind of insurance is not

1 prejudicial to the best interest of the people of this state.

2 (g) A United States branch shall maintain assets in a trust account in an
3 amount not less than the United States branch's reserves and other liabilities, plus the
4 greater of

5 (1) the minimum basic capital or basic guaranteed surplus and
6 additional maintained surplus required under AS 21.09.070; or

7 (2) the authorized control level risk based capital under AS 21.14.

8 (h) A written trust agreement must contain provisions that

9 (1) vest legal title to trustee assets in the trustees, and their lawfully
10 appointed successors;

11 (2) require that all assets deposited in the trust be continuously kept
12 within the United States;

13 (3) provide for substitution of a new trustee in case of a vacancy by
14 death, resignation, or other reason, subject to the prior written approval of the director;

15 (4) require that the trustee continuously maintain a record sufficient to
16 identify the assets of the trust fund;

17 (5) require that trustee assets consist only of cash, investments eligible
18 for investment of the funds of domestic insurers, and accrued interest on the assets, if
19 collectible by the trustee, subject to the limits on investment of funds by domestic
20 insurers under this title;

21 (6) require that the trust be for the exclusive benefit, security, and
22 protection of the policyholders, or policyholders and creditors, of the United States
23 branch in the United States and that the trust be maintained as long as there is an
24 outstanding liability of the alien insurer arising out of its transaction of insurance in
25 the United States; and

26 (7) provide that withdrawal of an asset may not be made or permitted
27 by a trustee without the prior written approval of the director except

28 (A) to make deposits required by law in a state for the security
29 or benefit of all policyholders, or policyholders and creditors, of the United
30 States branch in the United States;

31 (B) to withdraw funds deposited in another state under (A) of

1 this paragraph if

2 (i) the written trust agreement requires prior written
3 approval of the insurance supervising official of that other state;

4 (ii) written notice of the nature and extent of the
5 withdrawal is provided to the director within 30 days of the withdrawal;
6 and

7 (iii) the total trustee assets remaining are in excess of
8 the total assets required to be maintained in trust under (g) of this
9 section;

10 (C) upon the specific written direction of the United States
11 manager, who is duly authorized and is acting under either general or specific
12 written authority previously given or delegated by the board of directors, to
13 substitute other assets as permitted by this title if the substituted assets are of
14 at least equal value and quality to those withdrawn;

15 (D) to transfer assets to an official liquidator or rehabilitator
16 under an order of a court of competent jurisdiction; or

17 (E) if provided under the terms of the written trust agreement,
18 to pay over to the United States manager of the United States branch, upon
19 request, income, dividends, or interest accumulations of the assets of the trust
20 fund that are in excess of the total assets required to be maintained in trust
21 under (g) of this section.

22 (i) A written trust agreement and all amendments to it shall be authenticated
23 in a form and manner that the director may prescribe and may not take effect until
24 approved by the director. The director may not approve a trust agreement unless the
25 director makes a written finding that

26 (1) the written trust agreement or its amendments are sufficient in form
27 and in conformity with law;

28 (2) a person designated as a trustee is eligible to act in that capacity;
29 and

30 (3) the written trust agreement is adequate to protect the interests of the
31 beneficiaries of the trust.

1 (j) The director may approve written modifications of, or variations in, a
2 written trust agreement upon a finding that the proposed changes are not prejudicial
3 to the interests of the people of this state or the United States policyholders and
4 creditors of the United States branch.

5 (k) The director may conduct examinations of the trustee assets of an
6 authorized United States branch at the insurer's expense and may require the trustee
7 or trustees to file a statement, in a form as prescribed by the director, certifying the
8 assets and amounts of the trust fund.

9 (l) The director, upon finding that the requisites for the approval of the trust
10 agreement no longer exist, may issue an order that withdraws approval of a written
11 trust agreement and amendments to it. An order issued under this subsection takes
12 effect 10 days after being issued.

13 (m) In addition to all other actions permitted under this title, refusal or neglect
14 of a trustee to comply with the requirements of this title is a cause for suspension or
15 revocation of the United States branch's certificate of authority or the liquidation of the
16 alien insurer's United States branch.

17 (n) Annual statements under AS 21.09.200 and quarterly statements under
18 AS 21.09.205 (1) may only relate to insurance transactions and affairs within the
19 United States, assets held by or for the United States branch for the protection of
20 policyholders and creditors within the United States, and liabilities incurred against
21 those assets; and (2) may not contain a statement in regard to assets and business
22 transacted in a place not described in this subsection. The annual and quarterly
23 statements shall be signed and verified by the United States manager, attorney-in-fact,
24 or a duly empowered assistant United States manager of the United States branch.

25 (o) In a form prescribed by the director, an authorized United States branch
26 shall file with its annual and quarterly statements a statement of trustee surplus
27 covering the same time period. The trustee surplus shall consist of the aggregate
28 value of the United States branch's general state deposits and assets deposited with a
29 trustee under this section, plus accrued interest income if the interest were collected
30 by the states for the trustees, less the aggregate net amount of all its reserves and other
31 liabilities in the United States as determined under this subsection. The items of

1 securities and other property held under trust deeds shall be certified by the United
2 States trustee. To determine the net amount of the United States branch's liabilities in
3 the United States to be reported in the statement of trusted surplus, the United States
4 branch shall adjust its total liabilities reported on its accompanying annual or quarterly
5 statement as follows:

6 (1) by adding back liabilities used to offset admitted assets reported in
7 the accompanying annual or quarterly statement; and

8 (2) by deducting

9 (A) unearned premiums on agent's balances or uncollected
10 premiums not more than 90 days past due;

11 (B) reinsurance on losses with authorized insurers, less unpaid
12 reinsurance premiums;

13 (C) reinsurance recoverables on paid losses from unauthorized
14 insurers that are included as an asset in the annual statement, but only to the
15 extent a liability for unauthorized recoverables as described in this paragraph
16 are included in the liabilities report in the trusted surplus statement;

17 (D) special state deposits held for the exclusive benefit of
18 policyholders, or policyholders and creditors, of a particular state not exceeding
19 net liabilities reported for that state;

20 (E) secured accrued retrospective premiums;

21 (F) if a life insurer,

22 (i) the amount of its policy loans to policyholders within
23 the United States, not exceeding the amount of legal reserve required
24 on an affected policy; and

25 (ii) the net amount of uncollected and deferred
26 premiums; and

27 (G) other nontrusted assets, upon a written finding by the
28 director that the other nontrusted assets secure liabilities in a substantially
29 similar manner to those permitted under this subsection.

30 (p) In addition to the annual and quarterly statements and the statements of
31 trusted surplus, the director may require additional information relating to total

1 business or assets, or any portion of them, of the alien insurer or its United States
2 branch.

3 (q) In addition to the general statement of the financial condition of the United
4 States branch, a report of examination must include a trustee surplus statement as of
5 the date of the examination.

6 (r) In this section,

7 (1) "trustee assets" are the assets maintained in a trust account under
8 (g) of this section;

9 (2) "United States branch" means the business unit through which
10 business is transacted within the United States by an alien insurer and the assets and
11 liabilities of the insurer within the United States applicable to that business.

12 * **Sec. 17.** AS 21.12.020(a) is amended to read:

13 (a) Credit for reinsurance transactions shall be allowed a domestic ceding
14 insurer as either an asset or a deduction from liability on account of reinsurance ceded
15 only if the reinsurance is ceded to an

16 (1) assuming insurer that is licensed to transact insurance or reinsurance
17 in this state;

18 (2) assuming insurer that is accredited as a reinsurer in this state; an
19 accredited reinsurer is one that

20 (A) files evidence of submission [SUBMITS] to this state's
21 jurisdiction, submits to this state's authority to examine its books and records
22 under AS 21.06.120, is licensed to transact insurance or reinsurance in at least
23 one state that is accredited by the National Association of Insurance
24 Commissioners, or, in the case of a United States branch of an alien
25 admitted insurer, is entered through and licensed to transact insurance or
26 reinsurance in at least one state that is accredited by the National
27 Association of Insurance Commissioners; [AND FILES ANNUALLY WITH
28 THE DIRECTOR A COPY OF THE REINSURER'S ANNUAL STATEMENT
29 FILED WITH THE INSURANCE DEPARTMENT OF THE REINSURER'S
30 STATE OF DOMICILE AND A COPY OF THE REINSURER'S MOST
31 RECENT AUDITED FINANCIAL STATEMENT; OR]

1 (B) [IN THE CASE OF A UNITED STATES BRANCH OF
2 AN ALIEN ASSUMING INSURER, IS ENTERED THROUGH, AND
3 LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN, AT
4 LEAST ONE STATE ACCREDITED BY THE NATIONAL ASSOCIATION
5 OF INSURANCE COMMISSIONERS, FILES ANNUALLY WITH THE
6 DIRECTOR A COPY OF ITS ANNUAL FINANCIAL STATEMENT THAT
7 IS FILED WITH THE INSURANCE REGULATORY AGENCY OF ITS
8 STATE OF DOMICILE, AND] maintains at least \$20,000,000 in policyholder
9 surplus **and whose accreditation has not been denied by the director within**
10 **90 days of application to the director, or maintains less than \$20,000,000**
11 **in policyholder surplus and whose application for accreditation has been**
12 **approved by the director; and**

13 (C) **files annually with the director a copy of the reinsurer's**
14 **annual financial statement filed with the insurance department of the**
15 **reinsurer's state of domicile or state of entry and a copy of the reinsurer's**
16 **most recent audited financial statement** [THE SURPLUS REQUIREMENTS
17 IN THIS SUBPARAGRAPH DO NOT APPLY TO REINSURANCE CEDED
18 AND ASSUMED UNDER A POOLING ARRANGEMENT AMONG
19 INSURERS IN THE SAME HOLDING COMPANY SYSTEM];

20 (3) assuming insurer that is domiciled in a state, or in the case of a
21 United States branch of an alien assuming insurer, is entered through a state accredited
22 by the National Association of Insurance Commissioners that employs standards
23 regarding credit for reinsurance ceded substantially similar to those applicable under
24 (1) and (2) of this subsection, the assuming insurer maintains a policyholder surplus
25 of at least \$20,000,000, and the assuming insurer submits to the authority of this state
26 to examine its books and records; the surplus requirements in this paragraph do not
27 apply to reinsurance ceded and assumed under a pooling arrangement among insurers
28 in the same holding company system;

29 (4) assuming alien insurer that

30 (A) maintains a trust fund in a qualified United States financial
31 institution for the payment of the valid claims of its United States policyholders

1 and ceding insurers, and their assigns and successors in interest, that conforms
2 to the following requirements:

3 (i) the trust shall be established in a form approved by
4 the director; the trust instrument must provide that contested claims are
5 valid and enforceable upon the final order of any court of competent
6 jurisdiction in the United States; the trust shall vest legal title to its
7 assets in the trustees of the trust for its United States policyholders and
8 ceding insurers, their assigns, and successors in interest; the trust and
9 the assuming insurer are subject to examination as determined by the
10 director; the trust must remain in effect for so long as the assuming
11 insurer has outstanding liabilities due under the reinsurance agreements
12 subject to the trust;

13 (ii) on or before March 1 of each year the trustees shall
14 report in writing to the director on the balance of the trust and list the
15 trust's investments at the end of the preceding year, and shall certify the
16 date of termination of the trust, if so planned, or certify that the trust
17 does not expire before the following December 31;

18 (iii) in the case of a single assuming insurer, the trust
19 shall consist of trust money representing the assuming insurer's
20 liabilities attributable to business written in the United States and, in
21 addition, include a trust surplus of not less than \$20,000,000; the single
22 assuming insurer shall make available to the director an annual
23 certification of the insurer's solvency by the insurer's domiciliary
24 regulator and by an independent certified public accountant or an
25 accountant holding a substantially equivalent designation as
26 determined by the director;

27 (iv) in the case of a group, including incorporated and
28 [OF] individual unincorporated insurers, the trust shall consist of trust
29 money representing the group's liabilities attributable to business written
30 in the United States and, in addition, include a trust surplus not less
31 than \$100,000,000; the incorporated members of the group may not

1 be engaged in any business other than underwriting as a member
2 of the group and are subject to the same level of solvency
3 regulation and control by the group's domiciliary regulator as are
4 the unincorporated members; the group shall make available to the
5 director an annual certification of the solvency of each insurer [OF
6 THE INDIVIDUAL UNINCORPORATED INSURERS] by the group's
7 domiciliary regulator and by an independent certified public accountant,
8 or an accountant holding a substantially equivalent designation as
9 determined by the director;

10 (v) in the case of a group of incorporated insurers under
11 common administration that complies with the reporting requirements
12 contained in (ii) of this subparagraph, that has continuously transacted
13 an insurance business outside the United States for at least three years
14 immediately before making application for accreditation, that submits
15 to this state's authority to examine its books and records and bears the
16 expense of the examination, and that has aggregate policyholders'
17 surplus of \$10,000,000,000, the trust shall be in an amount equal to the
18 group's several liabilities attributable to business ceded by United States
19 ceding insurers to a member of the group under reinsurance contracts
20 issued in the name of the group, and the group shall maintain a joint
21 trustee surplus, of which \$100,000,000 shall be held jointly for the
22 benefit of United States ceding insurers of a member of the group as
23 additional security for the group's liabilities, and each member of the
24 group shall make available to the director an annual certification of the
25 member's solvency by the member's domiciliary regulator and the
26 member's independent certified public accountant, or an accountant
27 holding a substantially equivalent designation as determined by the
28 director; and

29 (B) reports annually to the director information substantially the
30 same as that required to be reported on the National Association of Insurance
31 Commissioners' annual statement form by licensed insurers to enable the

1 director to determine the sufficiency of the trust fund;
2 (5) assuming insurer that does not meet the requirements of (1) - (4)
3 of this subsection, but only with respect to the insurance of risks located in
4 jurisdictions where the reinsurance is required by applicable law or regulation of that
5 jurisdiction.

6 * **Sec. 18.** AS 21.12.020(g) is amended to read:

7 (g) An [A LIFE] insurer may receive credit for reinsurance transactions if the
8 reinsurance agreement meets all applicable requirements established by the director.

9 * **Sec. 19.** AS 21.14.040 is amended to read:

10 Sec. 21.14.040. AUTHORIZED CONTROL LEVEL EVENT. If an authorized
11 control level event occurs, the director shall take the action necessary

12 (1) under AS 21.14.030(a) [AS 21.14.030(b)] against the insurer; or
13 (2) to place the insurer under regulatory control under AS 21.78 if,
14 after a hearing under AS 21.06.180 - 21.06.240, the director determines it to be in the
15 best interest of the policyholders and creditors of the insurer, and of the public.

16 * **Sec. 20.** AS 21.18.060(b) is amended to read:

17 (b) The director may require that the reserves be equal to the unearned
18 portions of the gross premiums in force after deducting applicable reinsurance in
19 solvent insurers as computed on each respective risk from the policy's date of issue.
20 [EXCEPT AS REQUIRED BY THE DIRECTOR UNDER THIS SUBSECTION, THE
21 PORTIONS OF THE GROSS PREMIUM IN FORCE, LESS APPLICABLE
22 REINSURANCE IN SOLVENT INSURERS, TO BE HELD AS AN UNEARNED
23 PREMIUM RESERVE SHALL BE COMPUTED ACCORDING TO THE
24 FOLLOWING TABLE:

25	TERM FOR WHICH POLICY	RESERVE FOR UNEARNED
26	WAS WRITTEN	PREMIUM
27	1 YEAR OR LESS	1/2
28	2 YEARS	1ST YEAR 3/4
29		2ND YEAR 1/4
30	3 YEARS	1ST YEAR 5/6
31		2ND YEAR 1/2

1		3RD YEAR 1/6
2	4 YEARS	1ST YEAR 7/8
3		2ND YEAR 5/8
4		3RD YEAR 3/8
5		4TH YEAR 1/8
6	5 YEARS	1ST YEAR 9/10
7		2ND YEAR 7/10
8		3RD YEAR 1/2
9		4TH YEAR 3/10
10		5TH YEAR 1/10
11	OVER 5 YEARS	PRO RATA.]

12 * **Sec. 21.** AS 21.18.060(c) is amended to read:

13 (c) **An** [IN LIEU OF COMPUTATION ACCORDING TO THE TABLE IN
14 (b) OF THIS SECTION, THE] insurer **shall** [AT ITS OPTION MAY] compute all of
15 the reserves on a monthly or more frequent pro rata basis.

16 * **Sec. 22.** AS 21.18.090 is amended to read:

17 Sec. 21.18.090. LOSS RESERVES, LIABILITY INSURANCE, AND
18 WORKERS' COMPENSATION. Where required in the form of annual statement
19 required of the insurer, the reserve for outstanding losses under insurance against loss
20 or damage from accident to or injuries suffered by an employee or other person and
21 for which the insured is liable shall be computed as follows:

22 (1) for all liability **claims under policies written more than three**
23 **years before the end of the calendar year covered by the annual statement, the**
24 **reserve shall be the undiscounted value of the determined and the estimated**
25 **future payments** [SUITS BEING DEFENDED UNDER POLICIES WRITTEN MORE
26 THAN

27 (A) 10 YEARS BEFORE THE DATE THE STATEMENT IS
28 MADE, \$1,500 FOR EACH SUIT;

29 (B) FIVE OR MORE AND LESS THAN 10 YEARS BEFORE
30 THE STATEMENT IS MADE, \$1,000 FOR EACH SUIT;

31 (C) THREE OR MORE AND LESS THAN FIVE YEARS

BEFORE THE STATEMENT IS MADE, \$850 FOR EACH SUIT];

(2) for all liability policies written during the three years immediately preceding the date the statement is made, the reserve shall be **the greater of** 60 percent of the earned liability premiums of each of the three years less all losses and expense payments made under liability policies written in the corresponding years **or the undiscounted value of the known and unknown claims**; [BUT THE RESERVE, FOR THE FIRST OF THE THREE YEARS, SHALL BE NOT LESS THAN \$750 FOR EACH OUTSTANDING LIABILITY SUIT ON THE YEAR'S POLICIES];

(3) for all workers' compensation claims under policies written more than three years before **the end of the calendar year covered by the annual** statement [IS MADE], the reserve **may not** [SHALL] be **less than** the present value at four percent interest of the determined and the estimated future payments;

(4) for all workers' compensation claims under policies written in the three years immediately preceding the **end of the calendar year covered by** [DATE] the **annual** statement [IS MADE], the reserve **may not** [SHALL] be **less than** 65 percent of the earned **workers'** compensation premiums of each of the three years, less all loss and loss expense payments made in connection with the claims under policies written in the corresponding years; [BUT IN THE FIRST YEAR OF THE THREE-YEAR PERIOD,] the reserve **may not** [SHALL] be [NOT] less than the present value at **four** [4] percent interest of the determined and the estimated unpaid compensation claims under policies written during the **three-year period** [YEAR].

* **Sec. 23.** AS 21.18.110(a) is amended to read:

(a) The director shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, and may certify the amount of the reserves, specifying the mortality table or tables, rate or rates of interest, and methods (net level premium method or other) used in the calculation of the reserves. In calculating the reserves, the director may use group methods and approximate averages for fractions of a year or otherwise. For an alien insurer, the valuation shall be limited to its insurance transactions in the United States. For the purpose of making the valuation the director may employ a competent actuary

1 who shall be paid by the insurer for which the service is rendered [; BUT A
2 DOMESTIC INSURER MAY MAKE THE VALUATION AND IT MAY BE
3 RECEIVED BY THE DIRECTOR UPON SATISFACTORY PROOF OF ITS
4 CORRECTNESS]. For a foreign or alien insurer, the director may accept, in [IN]
5 lieu of the valuation of the reserves required of a foreign or alien insurer, [THE
6 DIRECTOR MAY ACCEPT] a valuation made, or caused to be made, by the
7 insurance supervisory official of a state or other jurisdiction if the valuation complies
8 with the minimum standard provided in this section and if the official of the state or
9 jurisdiction accepts as sufficient and valid for all legal purposes the certificate of
10 valuation of the director when the certificate states the valuation was made in a
11 specified manner in which the aggregate reserves would be at least as large as if they
12 had been computed in the manner prescribed by the law of that state or jurisdiction.
13 An insurer that at any time adopted a standard of valuation producing greater aggregate
14 reserves than those calculated according to the minimum standard provided in this
15 section may, with the approval of the director, adopt a lower standard of valuation, but
16 not lower than the minimum provided in this section.

17 * **Sec. 24.** AS 21.18.110(n) is amended to read:

18 (n) The actuarial opinion must

19 (1) be submitted with the annual statement reflecting the valuation of
20 the reserve liabilities;

21 (2) apply to all business in force, including individual and group health
22 insurance plans;

23 (3) be based on standards adopted by the Actuarial Standards Board;
24 and

25 (4) unless exempted by regulation, include an assessment as to
26 whether the reserves and related actuarial items held in support of the policies and
27 contracts, when considered in light of the assets held by an insurer with respect to the
28 reserves and related actuarial items, including investment earnings on the assets and
29 considerations anticipated to be received and retained under policies and contracts,
30 make adequate provision for an insurer's obligations under a policy or contract
31 including the benefits under and expenses associated with a policy or contract.

1 * **Sec. 25.** AS 21.18.110(q) is amended to read:

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

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

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

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

9 * **Sec. 26.** AS 21.18.110(r) is amended to read:

10 (r) If the insurer fails to provide a supporting memorandum **as requested by**
11 **the director** [REQUIRED BY (q)(3) OF THIS SECTION] within a period specified
12 by regulation or the director determines that the supporting memorandum fails to meet
13 the standards adopted by regulation or is otherwise unacceptable to the director, the
14 director may engage a qualified actuary, at the expense of the insurer, to review the
15 opinion and the basis for the opinion and to prepare a supporting memorandum as
16 required under (q) of this section.

17 * **Sec. 27.** AS 21.21.230 is amended to read:

18 Sec. 21.21.230. SAVINGS AND LOAN. To the extent that the account is
19 insured by the Federal **Deposit** [SAVINGS AND LOAN] Insurance Corporation, an
20 insurer may invest in share or savings accounts of savings and loan and building and
21 loan associations.

22 * **Sec. 28.** AS 21.21.250(a) is amended to read:

23 (a) An insurer may make loans or investments not otherwise expressly
24 permitted under this chapter, in aggregate amount not over five percent of the insurer's
25 assets and not over one percent of the **insurer's** assets **for** [OF] any one loan or
26 investment, if the loan or investment fulfills the requirements of AS 21.21.030, and
27 otherwise qualifies as a sound investment. However, a loan or investment may not be
28 represented by

29 (1) an item described in AS 21.18.030, or a loan or investment
30 otherwise expressly prohibited;

31 (2) agents' balances, or amounts advanced to or owing by agents or

1 former agents of the insurer, whether or not secured; except policy loans, mortgage
2 loans, and collateral loans otherwise authorized under this chapter;

3 (3) a category of loans or investments eligible under other provisions
4 of this chapter; or

5 (4) an asset theretofore acquired or held by the insurer under any other
6 category of loans or investments eligible under this chapter.

7 * **Sec. 29.** AS 21.21.370(a) is amended to read:

8 (a) A domestic insurer may [NOT] acquire, directly or indirectly, a medium
9 grade or lower grade obligation of an institution if, after giving effect to the
10 acquisition,

11 (1) the aggregate amount of all medium grade and lower grade
12 obligations held by the domestic insurer **does not exceed** [EXCEEDS] 20 percent of
13 its admitted assets **and** if not more than

14 (A) 10 percent of its admitted assets consist of obligations rated
15 four, five, or six by the securities valuation office;

16 (B) three percent of its admitted assets consist of obligations
17 rated five or six by the securities valuation office; and

18 (C) one percent of its admitted assets consist of obligations
19 rated six by the securities valuation office; **and** [OR]

20 (2) the aggregate amount of all medium grade **and** [OR] lower grade
21 obligations held by the domestic insurer **does not exceed** [EXCEEDS] 30 percent of
22 its policyholders' surplus account as shown by the insurer's most recent report filed
23 under AS 21.06.150, AS 21.09.200, or 21.09.205.

24 * **Sec. 30.** AS 21.22.010(g) is amended to read:

25 (g) The provisions of this section do not apply to

26 (1) an offer of, request for, invitation for, or agreement regarding [,
27 OR] acquisition of a voting security that, immediately before the consummation of the
28 offer, request, invitation, agreement, or acquisition, was not issued and outstanding; or

29 (2) an offer, request, invitation, agreement, or acquisition that the
30 director by order may exempt as not having been made or entered into for the purpose
31 and not having the effect of changing or influencing the control of the domestic

insurer.

* **Sec. 31.** AS 21.22.030 is amended by adding a new subsection to read:

(d) The director may retain at the acquiring person's expense an attorney, actuary, accountant, or other expert not otherwise a part of the director's staff, if reasonably necessary to assist the director in reviewing the proposed acquisition of control.

* **Sec. 32.** AS 21.22.060(b) is amended to read:

(b) Every insurer subject to registration shall file a registration statement on a form provided by the director, that must contain current information about

(1) the capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(2) the identity of every member of the insurance holding company system;

(3) the following agreements in force, relationships subsisting, and transactions currently outstanding between the insurer and its affiliates:

(A) loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(B) purchases, sales, or exchanges of assets;

(C) transactions not in the ordinary course of business;

(D) guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(E) all management and service contracts and all cost-sharing arrangements [, OTHER THAN COST ALLOCATION ARRANGEMENTS BASED UPON GENERALLY ACCEPTED ACCOUNTING PRINCIPLES]; and

(F) reinsurance agreements [COVERING ALL OR SUBSTANTIALLY ALL OF ONE OR MORE LINES OF INSURANCE OF THE CEDING COMPANY]; and

(4) other matters concerning transactions between registered insurers

1 and any affiliates that may be included from time to time in a registration form
2 adopted or approved by the director.

3 * **Sec. 33.** AS 21.22.060(c) is amended to read:

4 (c) The director may permit an authorized insurer that is a member of a
5 holding company system subject to registration under the laws or regulations of its
6 state of domicile that are in the opinion of the director substantially similar to those
7 contained in this chapter to satisfy the requirements of (a) of this section by filing a
8 statement in accordance with the laws of its state of domicile [EXCEPT THAT THE
9 DIRECTOR MAY AT ANY TIME REQUIRE A COPY OF THAT STATEMENT BE
10 FILED WITH THE DIRECTOR].

11 * **Sec. 34.** AS 21.22.060(d) is amended to read:

12 (d) **Information** [NO INFORMATION] need **not** be disclosed on the
13 registration statement filed under (b) of this section if that information is not material
14 for the purposes of this section. Unless the director by regulation or order provides
15 otherwise, sales, purchases, exchanges, loans or extensions of credit, [OR] investments,
16 **or the aggregate of a series of related transactions,** involving one-half of one
17 percent **or less** of an insurer's admitted assets or five percent **or less** of the
18 policyholder's surplus as of the 31st day of December of the calendar year in which
19 the transaction took place are not considered material for purposes of this section.

20 * **Sec. 35.** AS 21.22.060(k) is amended to read:

21 (k) An insurer subject to registration under (a) of this section shall register
22 annually by April 1 of each year for the previous calendar year unless, for good cause
23 shown, the director extends the time for registration. The director may require an
24 insurer [AUTHORIZED TO DO BUSINESS IN THE STATE, THAT IS A MEMBER
25 OF A HOLDING COMPANY SYSTEM AND] that is **allowed to register as**
26 **provided** [NOT SUBJECT TO REGISTRATION] under (c) [(a)] of this section, to
27 furnish a copy of

28 (1) the registration statement;

29 (2) [,] the summary specified in (l) of this section; [,] or

30 (3) other information filed by the insurer with the insurance regulatory
31 authority of the insurer's state of domicile.

1 * **Sec. 36.** AS 21.27.010(a) is amended to read:

2 (a) **Except as provided otherwise in this chapter, a** [A] person may not act
3 as or represent to be an insurance producer, managing general agent, reinsurance
4 intermediary broker, reinsurance intermediary manager, surplus lines broker, or
5 independent adjuster in this state or relative to a subject resident, located, or to be
6 performed in this state unless licensed under this chapter. A person may not act as or
7 represent to be a managing general agent, reinsurance intermediary broker, or
8 reinsurance intermediary manager representing an insurer domiciled in this state
9 regarding a risk located outside this state unless licensed by this state.

10 * **Sec. 37.** AS 21.27.020 is amended by adding new subsections to read:

11 (f) The director may adopt regulations establishing additional education or
12 experience requirements for applicants or licensees under this chapter upon due
13 consideration of the availability and accessibility of education and training
14 opportunities in rural areas of the state. Regulations adopted under this subsection are
15 subject to the following provisions:

16 (1) additional educational or experience requirements may not apply to
17 a licensee who has been licensed by the division of insurance before January 1, 1980;

18 (2) a licensee shall complete at least 24 credit hours of approved
19 continuing education courses during each two-year license period;

20 (3) if a licensee has accumulated more credit hours than required under
21 (2) of this subsection by the end of the license period, a maximum of eight hours may
22 be carried over to meet the requirements of (2) of this subsection in the next license
23 period;

24 (4) a program or seminar may not be approved as an acceptable
25 continuing education program unless it is a formal program of learning that contributes
26 to the professional competence of the licensee; individual study programs or
27 correspondence courses may be used to fulfill continuing education requirements if
28 approved by the director;

29 (5) a nonresident licensee is exempt from the requirements of this
30 subsection if the licensee submits evidence satisfactory to the director that the licensee
31 has satisfied any continuing education requirements of the licensee's domiciliary state.

(g) The director shall establish a continuing education advisory committee. The committee consists of one representative from the division of insurance, one life and disability insurance representative, one limited lines insurance representative, one property and casualty insurance representative, and one independent insurance adjuster representative. Each committee representative from the insurance industry must possess a valid, current insurance license issued in this state for the field to be represented.

(h) The director may make arrangements, including contracting with an outside agency, for administrative services.

* **Sec. 38.** AS 21.27.025(a) is amended to read:

(a) A licensee shall notify the director within 30 days in writing by certified mail of a change in residence, employment that is licensed under this chapter, place of business, **legal name, fictitious name or alias**, mailing address, or phone number; a suspension, [OR] revocation, **or disciplinary action** of a license by another state or jurisdiction; or a conviction of a misdemeanor or felony.

* **Sec. 39.** AS 21.27.060(d) is amended to read:

(d) This section does not apply to an applicant

(1) for a limited license under AS 21.27.150**(1), (2), or (6)**;

(2) who, at any time within the two-year period immediately preceding the date the current pending application is received by the division, had been licensed in good standing in this state under a license requiring substantially similar qualifications as required by the license applied for; or

(3) whose license in **its** [THE] resident jurisdiction requires the same qualifications as the license applied for in this state if the license in all jurisdictions is in good standing [AND ITS RESIDENT JURISDICTION IS ACCREDITED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS].

* **Sec. 40.** AS 21.27.100 is amended by adding a new subsection to read:

(e) An individual in a firm who acts solely on behalf of a firm that is appointed as an agent on behalf of an admitted insurer under this section, may not be required to also have an appointment if the individual in the firm is licensed with that firm.

1 * **Sec. 41.** AS 21.27.130 is amended to read:

2 Sec. 21.27.130. FORM AND CONTENT OF LICENSES. A license shall be
3 in the form the director prescribes and must set out

4 (1) the name and [MAILING] address of the licensee, and, if the
5 licensee is required to have a place of business, the physical address of the place of
6 business;

7 (2) if for a firm, the name of the principal or manager of the firm;

8 (3) the kind or class of insurance the licensee is licensed to handle;

9 (4) the effective date and expiration date of the license;

10 (5) the condition under which the license is granted;

11 (6) the date of issuance of the license;

12 (7) each fictitious name and alias under which the licensee may do
13 business; and

14 (8) other information required by the director.

15 * **Sec. 42.** AS 21.27.360(b) is amended to read:

16 (b) All money, except that made payable to the insurer, representing premium
17 taxes and fees, premiums or return premiums received by the licensee, shall be
18 received in the fiduciary account of the licensee and shall be promptly accounted for
19 and paid to the person entitled to the money. **The fiduciary account shall be located**

20 **in this state unless the licensee is licensed as a nonresident under AS 21.27.270.**

21 For purposes of this section, the fiduciary account of the firm shall be considered the
22 fiduciary account of an individual licensee acting on behalf of the firm and shall be
23 the responsibility of the firm. Money deposited into a fiduciary account may not be
24 commingled or otherwise combined with other money, except as allowed under (d) of
25 this section and AS 21.27.365.

26 * **Sec. 43.** AS 21.27.380(a) is amended to read:

27 (a) Except as provided in this title, the director may renew a license biennially
28 on a date set by the director if the licensee continues to be qualified under this chapter
29 **and on or before the close of business of the renewal date, meets all renewal**
30 **requirements established by regulation** and **pays the** [IF] renewal license fees set
31 under AS 21.06.250 for each license **to** [ARE RECEIVED BY] the director [ON OR

1 BEFORE THE CLOSE OF BUSINESS OF THE RENEWAL DATE]. A licensee is
2 responsible for knowing the date that a license lapses and for renewing a license before
3 expiration. The director shall mail a renewal notice to the licensee's current address
4 on file with the director 30 days before the renewal date.

5 * **Sec. 44.** AS 21.27.420 is amended by adding a new subsection to read:

6 (c) With the consent of an applicant or licensee, the director may issue or
7 renew a license with restrictions upon the scope of the person's license or may
8 otherwise restrict or condition the activities of the licensee if the director determines
9 that the person has violated the provisions of this title or to protect the public from
10 injury or potential injury.

11 * **Sec. 45.** AS 21.27.530 is amended to read:

12 Sec. 21.27.530. INSURANCE PRODUCER QUALIFICATIONS. In addition
13 to the general qualifications under AS 21.27.020, to qualify for issuance or renewal of
14 an insurance producer license, an applicant or licensee

15 (1) must possess the competence necessary to fulfill the responsibilities
16 of an insurance producer;

17 (2) if previously licensed in good standing in this state as an insurance
18 producer, must not have had a license suspended or revoked within the previous four
19 calendar years;

20 (3) for a fraternal society limited insurance producer license, shall file
21 with the application a statement by an officer or director of the appointing fraternal
22 society that affirms that the society has satisfied itself that the applicant is trustworthy
23 and competent to act as its insurance agent;

24 (4) for a license with a scope that includes variable contracts, must
25 either be currently registered with the federal Securities and Exchange Commission as
26 a broker-dealer or personally take and pass, to the satisfaction of the director, tests of
27 the knowledge and competence of the applicant concerning securities; and

28 (5) except for an applicant or licensee who represents to be and acts
29 solely on behalf of admitted insurers as an agent and who does not receive money
30 required to be received in the fiduciary account of the licensee, shall file with the
31 application and maintain in force while licensed a bond in the amount of \$10,000,

1 unless a greater amount is required by another provision of this title; **a licensee who**
2 **maintains more than one place of business may satisfy the bond requirement with**
3 **a single bond.**

4 * **Sec. 46.** AS 21.27.570(a)(3)(B) is amended to read:

5 (B) the controlling insurance producer shall render accounts to
6 the controlled insurer detailing all transactions, including information **in the**
7 **accounts** necessary to support compensation, commissions, charges, and other
8 fees received by, or owing to, the controlling producer;

9 * **Sec. 47.** AS 21.27.620(j) is amended to read:

10 (j) If the director determines after a hearing under AS 21.06.170 - 21.06.240
11 that a managing general agent caused loss **or damage** arising out of a violation of
12 AS 21.27.590 - 21.27.630 to an insurer, the director may order the managing general
13 agent to make restitution to the insurer, **receiver,** [THE] rehabilitator, or [THE]
14 liquidator of the insurer for the loss. Restitution ordered under this subsection is in
15 addition to any other liability of the managing general agent and does not affect the
16 rights of a policy holder, claimant, creditor, or third party. **The director may, at the**
17 **request of the insurer, maintain or bring a civil action brought by or on behalf**
18 **of the insurer and its policyholders and creditors for recovery of compensatory**
19 **damages for the benefit of the insurer and its policyholders and creditors or seek**
20 **other appropriate relief. If an order of rehabilitation or liquidation of the insurer**
21 **has been entered under AS 21.78, the receiver appointed under the order**
22 **determines that a person has not materially complied with AS 21.27.590 -**
23 **21.27.630 or an order of the director, and the insurer suffers loss or damage from**
24 **the noncompliance, the receiver may bring a civil action for the recovery of**
25 **damages or other appropriate sanctions for the benefit of the insurer.**

26 * **Sec. 48.** AS 21.27.690(b) is amended to read:

27 (b) **An** [A DOMESTIC] insurer may use a nonresident reinsurance
28 intermediary broker who is not licensed under this chapter if the person is licensed in
29 good standing as a resident reinsurance intermediary broker by an insurance regulator
30 of another state that is accredited by the National Association of Insurance
31 Commissioners. Upon written request, the director may grant written permission for

1 a domestic insurer to use an alien reinsurance intermediary broker not licensed by and
2 without a place of business in a jurisdiction subject to accreditation by the National
3 Association of Insurance Commissioners if the alien reinsurance intermediary broker
4 is licensed in good standing by its domiciliary insurance regulator. The domestic
5 insurer and unlicensed reinsurance intermediary broker are subject to all other
6 requirements of this section.

7 * **Sec. 49.** AS 21.27.690(e) is amended to read:

8 (e) If the director determines after a hearing under AS 21.06.170 - 21.06.240
9 that a reinsurance intermediary broker caused losses or damage arising out of a
10 violation of AS 21.27.670 - 21.27.700 to an insurer or reinsurer, the director may order
11 the reinsurance intermediary broker to make restitution to the insurer, reinsurer,
12 **receiver**, rehabilitator, or liquidator of the insurer or reinsurer for the net losses
13 incurred by the insurer or reinsurer. Restitution ordered under this subsection is in
14 addition to any other liability of the reinsurance intermediary broker and does not
15 affect the rights of a policyholder, claimant, creditor, or third party. **The director**
16 **may, at the request of the insurer, maintain or bring a civil action brought by or**
17 **on behalf of the reinsurer or insurer and its policyholders and creditors for**
18 **recovery of compensatory damages for the benefit of the reinsurer or insurer and**
19 **its policyholders and creditors or seek other appropriate relief. If an order of**
20 **rehabilitation or liquidation of the insurer has been entered under AS 21.78, the**
21 **receiver appointed under the order determines that a person has not materially**
22 **complied with AS 21.27.670 - 21.27.700 or an order of the director, and the**
23 **insurer suffers loss or damage from the noncompliance, the receiver may bring**
24 **a civil action for the recovery of damages or other appropriate sanctions for the**
25 **benefit of the insurer.**

26 * **Sec. 50.** AS 21.27.760(j) is amended to read:

27 (j) If the director determines after a hearing under AS 21.06.170 - 21.06.240
28 that a reinsurance intermediary manager caused losses or damage arising out of a
29 violation of AS 21.27.730 - 21.27.770 to an insurer or reinsurer, the director may order
30 the reinsurance intermediary manager to make restitution to the insurer, reinsurer,
31 **receiver**, rehabilitator, or liquidator of the insurer or reinsurer for the net losses

1 incurred by the insurer or reinsurer. Restitution ordered under this subsection is in
2 addition to any other liability of the reinsurance intermediary manager and does not
3 affect the rights of a policyholder, claimant, creditor, or third party. **The director**
4 **may, at the request of the insurer, maintain or bring a civil action brought by or**
5 **on behalf of the reinsurer or insurer and its policyholders and creditors for**
6 **recovery of compensatory damages for the benefit of the reinsurer or insurer and**
7 **its policyholders and creditors or seek other appropriate relief. If an order of**
8 **rehabilitation or liquidation of the insurer has been entered under AS 21.78, the**
9 **receiver appointed under the order determines that a person has not materially**
10 **complied with AS 21.27.730 - 21.27.770 or an order of the director, and the**
11 **insurer suffers loss or damage from the noncompliance, the receiver may bring**
12 **a civil action for the recovery of damages or other appropriate sanctions for the**
13 **benefit of the insurer.**

14 * Sec. 51. AS 21.34.040(c)(4) is amended to read:

15 (4) a Lloyd's or other similar **group including incorporated and**
16 **individual** unincorporated **underwriters**, [GROUP OF ALIEN INDIVIDUAL
17 INSURERS] may qualify if it maintains a trust fund in an amount not less than
18 \$50,000,000, as security to the full amount, for the protection of all its policy holders
19 and creditors of each member of the group in the United States; **the incorporated**
20 **members may not be engaged in any business other than underwriting as a**
21 **member of the group and shall be subject to the same level of solvency regulation**
22 **and control by the group's domiciliary regulator as are the unincorporated**
23 **members**; the trust fund must consist of instruments of substantially the same
24 character and quality as those that are eligible investments for the capital and statutory
25 reserves of admitted insurers authorized to write like kinds of insurance in this state
26 or of irrevocable, clean, and unconditional letters of credit; the trust fund must have
27 an expiration date that at no time is less than five years;

28 * Sec. 52. AS 21.34.080(c) is amended to read:

29 (c) A producing broker shall execute and deliver to the surplus lines broker not
30 later than the end of each month on a form prescribed by the director, and a surplus
31 lines broker shall file with the director with the report required by (a) of this section

1 or with the surplus lines association with the evidence of insurance required by (b) of
2 this section, for surplus lines insurance first placed or renewed in the preceding
3 calendar month, an affidavit that shall be open to public inspection, as to the diligent
4 efforts to place the coverage with admitted insurers, and the results of those efforts.
5 The affidavit must contain a statement by the **producing** broker that the insured was
6 expressly informed in writing before **the** [PLACEMENT OF THE SURPLUS LINES]
7 insurance **contract or coverage was bound** that the surplus lines insurer with whom
8 the insurance was to be placed is not licensed in this state, is not subject to this state's
9 supervision, and, in the event of the insolvency of the surplus lines insurer, losses will
10 not be covered under AS 21.80 (Alaska Insurance Guaranty Association Act).

11 * **Sec. 53.** AS 21.34.110 is amended to read:

12 Sec. 21.34.110. SURPLUS LINES BROKER'S DUTY TO NOTIFY
13 INSURED. **(a)** A contract of insurance placed by a surplus lines broker under this
14 chapter is not binding upon the insured and a premium charged is not due and payable
15 until

16 **(1)** the surplus lines broker has notified the insured in writing, a copy
17 of which shall be maintained by the licensee with the records of the contract, available
18 for examination, that the insurer with which the surplus lines broker places the
19 insurance does not hold a certificate of authority issued by this state and is not subject
20 to its supervision, and in the event of the insolvency of the surplus lines insurer, losses
21 will not be covered under AS 21.80 (Alaska Insurance Guaranty Association Act); **or**

22 **(2) the surplus lines broker has obtained the affidavit of the**
23 **producing broker that the notice required under AS 21.34.080(c) has been given**
24 **to the insured; a licensee shall maintain a copy of the affidavit with the record of**
25 **the contract available for examination.**

26 **(b)** Nothing in this section **may be construed as nullifying** [SHALL
27 NULLIFY] an agreement by an insurer to provide insurance.

28 * **Sec. 54.** AS 21.34.190(a) is amended to read:

29 (a) The fee for filing the statement under AS 21.34.180(b) is an amount equal
30 to one percent on gross premium charged less any return premiums during the
31 preceding calendar **year** [QUARTER]. The surplus lines broker shall pay the fee at

1 the time of filing of the statement.

2 * **Sec. 55.** AS 21.36.120(d) is amended to read:

3 (d) Nothing in this section may be construed as prohibiting the payment of
4 commissions or other compensation to persons duly transacting business under
5 AS 21.27 [LICENSED AGENTS OR SOLICITORS], or as prohibiting an insurer from
6 allowing or returning to its participating policyholders, members, or subscribers, lawful
7 dividends, savings, or unabsorbed premium deposits.

8 * **Sec. 56.** AS 21.36.160 is amended to read:

9 Sec. 21.36.160. RIGHT OF DEBTOR OR BORROWER TO SELECT
10 INSURANCE PRODUCER [AGENT, BROKER,] AND INSURER. If property
11 insurance is required in connection with a debt or loan, the debtor or borrower has the
12 reasonable right to select the insurance producer [AGENT, BROKER,] and insurer
13 through whom the insurance is to be placed if (1) the insurance is provided for the
14 protection of the creditor's or lender's interest in the property at the commencement of
15 the risk; or (2) in the case of renewal of insurance, the renewal policy is delivered to
16 the creditor or lender no later than 30 days before the renewal date.

17 * **Sec. 57.** AS 21.36.195 is amended to read:

18 Sec. 21.36.195. SURPLUS LINES BROKERS AND INSURANCE
19 PRODUCERS; PROHIBITED ACTS. A surplus lines broker or an insurance
20 producer may not fail to provide evidence [THE EVIDENCES] of insurance,
21 affidavits, filings, or reports, or fail to maintain the records, or fail to pay the taxes and
22 fees, required under AS 21.34.

23 * **Sec. 58.** AS 21.36.235(a) is amended to read:

24 (a) Except as provided in AS 21.36.305 [AS 21.36.420], if the renewal
25 premium is increased more than 10 percent for a reason other than an increase in
26 coverage or exposure base, or if after renewal there will be a material restriction or
27 reduction in coverage not specifically requested by the insured, written notice shall be
28 mailed to the insured and to the agent or broker of record as required by AS 21.36.260

29 (1) at least 20 days before expiration of a personal insurance policy;
30 or

31 (2) at least 45 days before expiration of a business or commercial

1 policy.

2 * **Sec. 59.** AS 21.36.290 is amended to read:

3 Sec. 21.36.290. POLICY PERIOD. **Except as described in (b) of this**
4 **section, a** [A] policy with a policy period or term of less than 12 months shall, for the
5 purposes of AS 21.36.210 - 21.36.310, be considered to be written for a policy period
6 or term of 12 months except in case of cancellation under any of the circumstances
7 specified in AS 21.36.210, and a policy written for a term longer than one year or a
8 policy with no fixed expiration date shall be considered to be written for successive
9 policy periods or terms of one year and termination by an insurer effective on an
10 anniversary date of the policy shall be considered a failure to renew.

11 * **Sec. 60.** AS 21.36.290 is amended by adding a new subsection to read:

12 (b) For determining the appropriate rate or premium, a personal automobile
13 insurance policy with a policy period or term of less than six months shall, for the
14 purposes of AS 21.36.210 - 21.36.310, be considered to be written for a policy period
15 or term of six months.

16 * **Sec. 61.** AS 21.36 is amended by adding a new section to read:

17 Sec. 21.36.305. PREMIUM INCREASES ON PERSONAL AUTOMOBILE
18 INSURANCE POLICIES. (a) An insurer may not increase the premium on a personal
19 automobile insurance policy unless the increase applies to all insureds of the same
20 class.

21 (b) An insurer may not increase the premium or add a surcharge to a personal
22 automobile insurance policy because of the issuance of a citation for a moving traffic
23 violation unless the insured or another person who resides in the insured's household
24 and is covered by the policy has been convicted of the violation or has entered a plea
25 of no contest to the violation.

26 (c) The director shall adopt regulations to determine circumstances under
27 which an insurer may increase the premium or add a surcharge to a personal
28 automobile insurance policy.

29 (d) An insurer that increases the premium or adds a surcharge to a personal
30 automobile insurance policy may only make the increase or surcharge effective on the
31 renewal date of the policy.

(e) An insurer that increases the premium or adds a surcharge to a personal automobile insurance policy shall give written notice of the increase or surcharge at least 20 days before it takes effect, stating the reason for the change and the right of appeal under AS 21.39.090. This subsection does not apply to

(1) premium increase resulting from a change requested by an insured, if the insured is notified at the time the request is made that the amount of the insured's premium will change as a result of the requested policy change; or

(2) rate approved by the director if the insurer gives written notice of a premium increase to the insured at least 20 days before the renewal date of the affected policy.

* **Sec. 62.** AS 21.36.360(i) is amended to read:

(i) A criminal insurance act is committed by **a person** [AN INSURER] doing business in this state **or relative to a subject resident, located, or to be performed in this state** who knowingly

(1) writes, places, or causes to be written or placed in this state **or relative to a subject resident, located, or to be performed in this state** a policy, duplicate policy, or contract of insurance of any kind or character, or general or floating policy upon persons or property resident, situated, or located in this state, from or through a **person not authorized to transact business under AS 21.27 or a risk retention group or purchasing group not registered under AS 21.89.070** [BROKER, AGENT, SURPLUS LINE BROKER, OR PERSON WHO HAS NOT SECURED A GENERAL AGENT LICENSE IN THIS STATE]; or

(2) pays a commission or **other** form of remuneration to a person, firm, or organization for the writing or placing of insurance coverage in this state **or relative to a subject resident, located, or to be performed in this state** unless that person, firm, or organization **is authorized under AS 21.27 to transact** [HOLDS A LICENSE ISSUED BY THE DIRECTOR FOR] the kind **or class** of insurance written or placed, **or, in the case of a risk retention group or purchasing group, is registered under AS 21.89.070.**

* **Sec. 63.** AS 21.36.360(j) is amended to read:

(j) A criminal insurance act is committed by a person in this state **or relative**

1 to a subject resident, located, or to be performed in this state who acts as an
2 insurance producer, managing general agent, third-party administrator,
3 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
4 broker [SOLICITOR], or independent adjuster without being licensed by the director
5 as required under this title or as a risk retention group or purchasing group
6 without being registered as required under AS 21.89.070. A criminal insurance act
7 is committed by an insurance producer, managing general agent, third-party
8 administrator, reinsurance intermediary broker, reinsurance intermediary
9 manager, or surplus lines broker [OR SOLICITOR] who solicits or takes application
10 for, procures, or places for others any insurance for which the person is not licensed
11 as required under AS 21.27 or for which the license of the person has been
12 suspended or revoked. A criminal insurance act is committed by a person in this
13 state or relative to a subject resident, located, or to be performed in this state who
14 acts as or on behalf of a risk retention group or a purchasing group that is not
15 registered under AS 21.89.070 [THIS SUBSECTION DOES NOT APPLY TO A
16 PERSON DESCRIBED IN AS 21.90.910 OR TO A PERSON SECURING AND
17 FORWARDING INFORMATION REQUIRED FOR THE PURPOSE OF A GROUP
18 INSURANCE COVERING THE UNPAID BALANCE OR REMAINING PAYMENTS
19 PROPOSED TO BE MADE IN CONNECTION WITH THE PURCHASE OF
20 MERCHANDISE OR SERVICES IF NO COMMISSION OR OTHER
21 COMPENSATION IS PAYABLE ON ACCOUNT OF THE INSURANCE TO THE
22 PERSON].

23 * **Sec. 64.** AS 21.36.360(k) is amended to read:

24 (k) A criminal insurance act is committed by an insurance producer,
25 managing general agent, [GENERAL AGENT,] third-party administrator,
26 reinsurance intermediary broker, reinsurance intermediary manager, or surplus
27 lines broker [OR SOLICITOR] who knowingly compensates or offers to compensate
28 in any manner a person other than an insurance producer, managing [AGENT,]
29 general agent, third-party administrator, reinsurance intermediary broker,
30 reinsurance intermediary manager, or surplus lines broker [OR SOLICITOR]
31 licensed as required under this title in this or another jurisdiction [STATE OR

PROVINCE], for procuring or in any manner helping to procure applications for or to place insurance in this state. A criminal insurance act is committed by a person in this state or relative to a subject resident, located, or to be performed in this state who acts as or on behalf of a risk retention group or a purchasing group that is not registered under AS 21.89.070. This subsection does not apply to the payment of compensation that is not contingent upon volume of business transacted in the form of salaries to the regular employees of the insurance producer, managing general agent, third-party administrator, reinsurance intermediary [GENERAL AGENT,] broker, reinsurance intermediary manager, or surplus lines broker [OR SOLICITOR].

* **Sec. 65.** AS 21.36.360(n) is amended to read:

(n) A criminal insurance act is committed by an agent, managing general agent, third-party administrator, reinsurance intermediary broker, reinsurance intermediary manager, or other representative of an insurer involved in the procuring or issuance of an insurance contract who intentionally fails to report to the insurer the exact amount of consideration charged as premium for the contract and to maintain records showing that information.

* **Sec. 66.** AS 21.36.360(p) is amended to read:

(p) A fraudulent insurance act is committed by a person who

- (1) violates a provision of this title or a regulation issued under it;
- (2) falsely makes, completes, or alters a certificate of insurance or other document relating to insurance;
- (3) knowingly possesses a forged certificate of insurance or other document relating to insurance; or
- (4) knowingly issues a forged certificate of insurance or other document relating to insurance.

* **Sec. 67.** AS 21.36.360(q) is amended to read:

(q) A fraudulent or criminal insurance act described in

- (1) (b) of this section that is committed to obtain \$10,000 or more is a class B felony;
- (2) (c) or (d) of this section is a class B felony;

(3) (b) of this section that is committed to obtain \$500 or more but less than \$10,000 is a class C felony;

(4) (e), (f), (g), or (h), of this section is a class C felony;

(5) (b) of this section that is committed to obtain less than \$500 is a class A misdemeanor;

(6) (i), (j), (k), (l), (m), or (n) of this section is a class A misdemeanor;

(7) (o) of this section is a class B misdemeanor; [AND]

(8) (p)(1) [(p)] of this section is a class B misdemeanor unless another specific penalty is provided for the violation of the provision; **and**

(9) (p)(2) - (4) of this section may be prosecuted under AS 11.46.

* **Sec. 68.** AS 21.36.380 is amended to read:

Sec. 21.36.380. NOTICE ON CLAIM FORM. A claim form must contain a statement that states in substance the following: "A person who knowingly and with intent to injure, defraud, or deceive an insurance company files a claim containing false, incomplete, or misleading information **may be prosecuted under state law** [IS GUILTY OF A FELONY]." A lack of the statement on a claim form does not constitute a defense to prosecution under this title.

* **Sec. 69.** AS 21.39.040 is amended by adding new subsections to read:

(j) An insurer who has submitted an application for a certificate of authority under AS 21.09.110 and a filing of policy forms under AS 21.42.120 may file a proposed rating system as described in this section. The director's approval of the rating system is contingent upon the issuance of a certificate of authority under AS 21.09.120.

(k) The director may adopt regulations detailing the format and content of a rating system filing under this section.

* **Sec. 70.** AS 21.39 is amended by adding a new section to read:

Sec. 21.39.055. CANCELLATION OF APPROVED FILING. The voluntary surrender of a certificate of authority or the failure of the surrendering admitted foreign insurer to continue a certificate of authority in force has the effect of cancelling an approval that the insurer may have received under this chapter, unless the approval has been affirmed by the director at the time of the surrender or noncontinuation of the

1 certificate of authority.

2 * **Sec. 71.** AS 21.39.155(a) is amended to read:

3 (a) The director may require **insurers** [CARRIERS], except a reciprocal
4 insurer formed by and insuring only a group of municipalities or nonprofit public
5 utilities under AS 21.75 or a reciprocal insurer formed under AS 21.75 to provide
6 marine insurance, [OR A JOINT INSURANCE ARRANGEMENT FORMED UNDER
7 AS 21.76,] as a condition of writing a line of insurance dealing with medical
8 malpractice or workers' compensation, to participate in an assigned risk pool if the
9 director finds that mandatory carrier participation is in the public interest.

10 * **Sec. 72.** AS 21.42.120 is amended by adding new subsections to read:

11 (f) This section does not apply to a type of insurance subject to AS 21.57.

12 (g) An insurer who has submitted an application for a certificate of authority
13 under AS 21.09.110 may file a proposed policy form as described in this section. The
14 director's approval of the policy form is contingent upon the issuance of a certificate
15 of authority under AS 21.09.120.

16 (h) The director may adopt regulations detailing the format and content of the
17 filing of a policy form under this section.

18 * **Sec. 73.** AS 21.42.345 is amended by adding a new subsection to read:

19 (b) An insurer authorized under AS 21.09 to offer, issue for delivery, deliver,
20 or renew an individual or group disability insurance policy for medical coverage on
21 an expense incurred basis in the state, a hospital or medical service corporation
22 authorized under AS 21.87 to offer or renew an individual or group subscriber's
23 contract for medical coverage in the state, or a health maintenance organization
24 authorized under AS 21.86 to offer an enrollee contract to provide health care services
25 on a prepaid basis shall offer coverage for family members, including newly born
26 children, adopted children, or children placed for adoption and is subject to the
27 conditions in (a) of this section, regardless of the marital status of the covered person.

28 * **Sec. 74.** AS 21.42.353 is amended to read:

29 Sec. 21.42.353. COVERAGE FOR COSTS OF ACUPUNCTURE
30 TREATMENT. An insurer authorized under AS 21.09 to offer, issue for delivery,
31 deliver, or renew a disability insurance policy in the state, [OR] a hospital or medical

1 service corporation authorized under AS 21.87 to offer or renew a subscriber's contract,
2 or a health maintenance organization authorized under AS 21.86 to offer an
3 enrollee contract to provide health care services on a prepaid basis may offer
4 coverage for services of an acupuncturist licensed under AS 08.06 if the policy or
5 contract covers acupuncture treatment by a health care provider who is subject to other
6 provisions of AS 08.

7 * **Sec. 75.** AS 21.42.355 is amended to read:

8 Sec. 21.42.355. COVERAGE FOR COST OF SERVICES PROVIDED BY
9 NURSE MIDWIVES. (a) If an individual or group disability insurance policy,
10 subscriber's contract, enrollee contract, or fraternal benefit society certificate provides
11 indemnity for the cost of services of a physician provided to women during pregnancy,
12 childbirth, and the period after childbirth, indemnity in a reasonable amount shall also
13 be provided for the cost of an advanced nurse practitioner who provides the same
14 services. Indemnity may be provided under this subsection only if the advanced nurse
15 practitioner is certified to practice as a nurse midwife in accordance with regulations
16 adopted under AS 08.68.100(a), and the services provided are within the scope of
17 practice authorized by that certification.

18 (b) If an individual or group disability insurance policy, [A] subscriber's
19 contract, enrollee contract, or fraternal benefit society certificate provides for
20 furnishing those services required of a physician in the care of women during
21 pregnancy, childbirth, and the period after childbirth, the contract shall also provide
22 that an advanced nurse practitioner may furnish those same services instead of a
23 physician. Services may be provided under this subsection only if the advanced nurse
24 practitioner is certified to practice as a nurse midwife in accordance with regulations
25 adopted under AS 08.68.100(a), and the services provided are within the scope of
26 practice authorized by that certification.

27 * **Sec. 76.** AS 21.42.375(a) is amended to read:

28 (a) An insurer authorized under AS 21.09 to offer, issue for delivery, deliver,
29 or renew an individual or group disability insurance policy for medical coverage on
30 an expense incurred basis in the state, [OR] a hospital or medical service corporation
31 authorized under AS 21.87 to offer or renew a subscriber's contract for medical

1 coverage in the state, or a health maintenance organization authorized under
2 AS 21.86 to offer an enrollee contract to provide health care services on a prepaid
3 basis shall provide coverage for low-dose mammography screening under the schedule
4 described in (b) of this section if the policy or contract covers mastectomies and
5 prosthetic devices and reconstructive surgery incident to mastectomies.

6 * **Sec. 77.** AS 21.42.380 is amended to read:

7 Sec. 21.42.380. COVERAGE FOR TREATMENT OF PHENYLKETONURIA.

8 (a) An insurer authorized under AS 21.09 to offer, issue for delivery, deliver, or
9 renew an individual or a group disability insurance policy for major medical coverage
10 on an expense-incurred basis in the state, [OR] a hospital or medical service
11 corporation authorized under AS 21.87 to offer or renew a group contract for major
12 medical coverage in the state, or a health maintenance organization authorized
13 under AS 21.86 to offer an enrollee contract to provide health care services on a
14 prepaid basis shall [MUST] provide coverage for the formulas necessary for the
15 treatment of phenylketonuria. This subsection does not apply to

16 (1) a Medicare supplement insurance policy;

17 (2) long-term care insurance;

18 (3) an insurance policy regulated under 5 U.S.C. 8901 - 8914 or 42
19 U.S.C. 1395mm;

20 (4) an insurance policy that provides services or reimbursement
21 exclusively for optometric or vision care, dental or orthodontic care, podiatric,
22 ambulance, mental health, or chiropractic care;

23 (5) an insurance policy that the director has, in writing, determined
24 should be excluded from this subsection.

25 (b) The insurer, hospital or medical service corporation, or health
26 maintenance organization providing coverage under this section may impose
27 reasonable contract limitations but may not refuse coverage based on a preexisting
28 condition of phenylketonuria or require that the insured or subscriber pay a higher
29 deductible or copayment for the cost of treating phenylketonuria than for the cost of
30 treating another condition or illness.

31 (c) In this section,

1 (1) "copayment" means the portion of the cost to be paid by the
2 insured, [OR] subscriber, **or enrollee** in excess of the deductible;

3 (2) "cost" means the lowest of the following:

4 (A) the actual charge for the treatment received for
5 phenylketonuria;

6 (B) the usual, customary, and reasonable charge for the
7 treatment as determined by the contract of coverage; or

8 (C) the charge agreed to by contract between the provider and
9 the insurer, hospital [SERVICE CORPORATION,] or medical service
10 corporation, **or health maintenance organization**;

11 (3) "deductible" means the portion of covered costs that must be
12 incurred before benefits become payable;

13 (4) "long-term care insurance" has the meaning given in AS 21.53.200;

14 (5) "major medical coverage" means a disability insurance contract,
15 [OR] a subscriber contract, **or an enrollee contract** that provides benefits for hospital
16 and medical care with potential lifetime maximum benefits for the insured, [OR]
17 subscriber, **or enrollee** of at least \$10,000.

18 * **Sec. 78.** AS 21.56.180(c) is amended to read:

19 (c) Except as provided in this subsection, a small employer insurer may not,
20 directly or indirectly, enter into a contract, agreement, or arrangement with an
21 **insurance producer** [AGENT, BROKER], managing general agent, or third-party
22 administrator that provides for or results in the compensation paid to an **insurance**
23 **producer** [AGENT OR BROKER] for the sale of a health benefit plan to be varied
24 because of the health status, claims experience, industry, occupation, or geographic
25 location of the small employer. This subsection does not apply to a compensation
26 arrangement that provides compensation to an **insurance producer** [AGENT,
27 BROKER], managing general agent, or third-party administrator on the basis of a
28 percentage of premium, provided that the percentage does not vary because of the
29 health status, claims experience, industry, occupation, or geographic area of the small
30 employer.

31 * **Sec. 79.** AS 21.56.180(d) is amended to read:

- 1 (d) A small employer insurer
- 2 (1) shall provide reasonable compensation, as provided under the plan
- 3 of operation of the program, to an insurance producer [AGENT, BROKER],
- 4 managing general agent, or third-party administrator, if any, for the sale of a basic or
- 5 standard health benefit plan;
- 6 (2) or insurance producer [AGENT, BROKER], managing general
- 7 agent, or third-party administrator may not induce or otherwise encourage a small
- 8 employer to separate or otherwise exclude an employee from health coverage or
- 9 benefits provided in connection with the employee's employment;
- 10 (3) may only deny an application for coverage from a small employer
- 11 in writing and if the reasons for the denial are stated.

12 * **Sec. 80.** AS 21.57.010 is amended to read:

13 Sec. 21.57.010. PURPOSE. The purpose of this chapter is to promote the

14 public welfare by regulating consumer credit [LIFE INSURANCE AND CREDIT

15 DISABILITY] insurance. Nothing in this chapter is intended to prohibit or discourage

16 reasonable competition. The provisions of this chapter shall be liberally construed.

17 * **Sec. 81.** AS 21.57.020 is repealed and reenacted to read:

18 Sec. 21.57.020. APPLICABILITY. Consumer credit insurance transacted in

19 connection with a credit transaction for a personal, household, or family purpose is

20 subject to the provisions of this chapter except

- 21 (1) insurance written in connection with a credit transaction that is
- 22 (A) secured by a first mortgage or first deed of trust; and
- 23 (B) made to finance the purchase of real property, the
- 24 construction of a dwelling, or to refinance a prior credit transaction made for
- 25 that purpose;
- 26 (2) an isolated insurance transaction by the insurer not related to an
- 27 agreement or a plan for insuring debtors of the creditor;
- 28 (3) insurance for which no identifiable charge is made to the debtor;
- 29 or
- 30 (4) a loan or other credit transaction that exceeds \$30,000.

31 * **Sec. 82.** AS 21.57.030 is repealed and reenacted to read:

1 Sec. 21.57.030. AUTHORIZED TYPES OF CONSUMER CREDIT
2 INSURANCE. A type of consumer credit insurance defined in AS 21.57.160 may be
3 written separately or in combination with other types of consumer credit insurance on
4 an individual or group basis.

5 * **Sec. 83.** AS 21.57.040 is repealed and reenacted to read:

6 Sec. 21.57.040. AMOUNT OF CONSUMER CREDIT INSURANCE. (a) The
7 amount of coverage for credit life insurance payable at the time of loss

8 (1) may not exceed the greater of the actual net debt or the scheduled
9 net debt, except insurance on an

10 (A) agricultural credit transaction commitment, not exceeding
11 one year in duration, may be written up to the amount of the loan commitment
12 on a nondecreasing or level term plan; and

13 (B) educational credit transaction commitment may be written
14 for the net outstanding balance plus any unused commitment;

15 (2) may not be less than the actual net debt less any payments more
16 than two months overdue if the coverage is written on the actual outstanding net debt;

17 (3) may not exceed the following if the coverage is written on the
18 scheduled outstanding net debt:

19 (A) the scheduled net debt if the actual net debt is less than or
20 equal to the scheduled net debt;

21 (B) the actual net debt if the actual net debt is greater than the
22 scheduled net debt but less than or equal to the scheduled net debt plus two
23 months of payments; or

24 (C) the scheduled net debt plus two months of payments if the
25 actual net debt is greater than the scheduled net debt plus two months of
26 payments;

27 (4) must equal the actual net debt on the date of death if a premium is
28 assessed to the debtor on a monthly basis and is based on the actual net debt; and

29 (5) may be less than the net debt when the partial coverage is
30 calculated using one of the following:

31 (A) the amount of insurance is the lesser of a stated amount and

1 the amount is determined by (2) of this subsection;

2 (B) the amount of insurance is the lesser of a stated amount and

3 the amount is determined by (3) of this subsection;

4 (C) the amount of insurance is a constant percentage of the

5 amount determined by (2) or (3) of this subsection; or

6 (D) in the absence of any preexisting condition exclusion, the

7 amount of insurance payable in the event of death due to natural causes is

8 limited to the balance as it existed six months before the date of death if

9 (i) there has been at least one increase in the outstanding

10 balance during that six-month period, other than an increase due to the

11 accrual of interest or late charges; and

12 (ii) evidence of individual insurability has not been

13 required during that six-month period.

14 (b) The director may provide for other patterns of insurance consistent with

15 (a) of this section by regulation.

16 (c) The total amount of periodic indemnity payable in the event of disability

17 or unemployment, as defined in the policy, may not exceed the sum of the periodic

18 scheduled unpaid installments of the gross debt. The amount of a periodic indemnity

19 payment may not exceed the original gross debt divided by the number of periodic

20 installments.

21 (d) If credit disability insurance or credit unemployment insurance is written

22 in connection with an open-end consumer credit agreement, the amount of insurance

23 may not exceed the gross debt that would accrue on the amount using the creditor's

24 minimum repayment schedule. The periodic indemnity need not relate to the creditor's

25 minimum repayment schedule.

26 * **Sec. 84.** AS 21.57.050 is repealed and reenacted to read:

27 Sec. 21.57.050. DURATION OF COVERAGE. (a) The effective date of

28 coverage for

29 (1) consumer credit insurance that is elected by the debtor before or

30 contemporaneous with a credit transaction is the date when the debtor becomes

31 obligated to the creditor, except that when evidence of individual insurability is

1 required and the evidence is furnished more than 30 days after the date when the
2 debtor becomes obligated to the creditor, the effective date may be the date on which
3 the insurance company determines the evidence to be satisfactory;

4 (2) insurance coverage that is elected by the debtor on a date
5 subsequent to the date of the credit transaction is, subject to acceptance by the insurer,
6 a date not earlier than the date the election is made by the debtor or later than 30 days
7 following the date on which the insurer accepts the risk for coverage; an insurer shall
8 determine if a risk is acceptable by an objective method, including one related to a
9 particular date within a billing or repayment cycle or a calendar month; and

10 (3) a group policy that provides coverage with respect to a debt existing
11 on the policy effective date, must be on or after the effective date of the group policy.

12 (b) A charge for insurance may not be made to the debtor and retained by the
13 creditor or insurer for a time before commencement of the consumer credit insurance
14 to which the charge is related.

15 (c) The duration of coverage for consumer credit insurance may not extend

16 (1) beyond the termination date specified in the policy; the termination
17 date of insurance may precede, coincide with, or follow the scheduled maturity date
18 of the debt to which it relates, subject to any other requirements and restrictions of this
19 chapter; and

20 (2) more than 15 days beyond the scheduled maturity date of the debt
21 except when extended

22 (A) without additional cost to the debtor; or

23 (B) under a written agreement signed by the debtor, in
24 connection with a variable interest rate credit transaction or a deferral, renewal,
25 refinancing, or consolidation of debt.

26 (d) If the debt is discharged due to renewal, refinancing, or consolidation
27 before the scheduled termination date of the insurance, insurance in force must be
28 terminated before new insurance may be written in connection with the renewed,
29 refinanced, or consolidated debt.

30 (e) If insurance coverage terminates before the scheduled termination of the
31 insurance, the insurer shall make an appropriate refund or credit to the debtor. The

1 refund or credit must consist of the unearned insurance charge paid by the debtor for
2 insurance after the date of the termination, except that a refund is not required of a
3 charge made for insurance if the insurance is terminated by performance of the
4 insurer's obligation with respect to the insurance.

5 (f) An insured debtor may terminate consumer credit insurance at any time by
6 providing advance notice to the insurer. The individual policy or group certificate may
7 require that the notice be in writing or that the debtor surrender the individual policy
8 or group certificate, or both. The debtor's right to terminate coverage may also be
9 subject to the terms of the credit transaction contract.

10 * **Sec. 85.** AS 21.57 is amended by adding a new section to read:

11 Sec. 21.57.055. DISCLOSURE TO DEBTORS. (a) Before a debtor elects to
12 purchase consumer credit insurance in connection with a credit transaction, the insurer
13 shall disclose the following in writing to the debtor:

14 (1) the purchase of consumer credit insurance is optional and not a
15 condition of obtaining credit approval;

16 (2) if more than one kind of consumer credit insurer is being made
17 available to the debtor, whether the debtor can purchase the insurance separately or the
18 multiple coverage only as a package;

19 (3) the conditions of eligibility;

20 (4) if the debtor has other insurance that covers the risk, the debtor may
21 not want or need credit insurance;

22 (5) if the creditor requires consumer credit insurance as additional
23 security for a debt, the debtor has the option of furnishing the required amount of
24 insurance through existing policies owned or procured by the debtor or of procuring
25 and furnishing the required insurance through an insurer authorized to transact
26 insurance business in this state;

27 (6) the effective date of the coverage;

28 (7) the debtor may cancel the coverage within the first 30 days after
29 receiving the individual policy or group certificate and have a premium paid by the
30 debtor refunded or credited; thereafter, the debtor may cancel the policy at any time
31 during the term of the loan and receive a refund of unearned premium;

- 1 (8) a brief description of the coverage, including
- 2 (A) the amount;
- 3 (B) the term;
- 4 (C) any exceptions, limitations, or exclusions;
- 5 (D) the insured event;
- 6 (E) any waiting or elimination period;
- 7 (F) any deductible;
- 8 (G) any applicable waiver of premium provision;
- 9 (H) to whom the benefits would be paid; and
- 10 (I) the premium rate for a coverage or for multiple coverage in
- 11 a package;
- 12 (9) if the premium or insurance charge is financed, it is subject to
- 13 finance charges at the rate applicable to the credit transaction or at another specified
- 14 rate; and
- 15 (10) whether or not the benefits provided are sufficient to pay off the
- 16 debt in full, including finance charges unearned at the time of the claim.
- 17 (b) The disclosure required in (a) of this section shall be provided in the
- 18 following manner:
- 19 (1) in connection with consumer credit insurance offered
- 20 contemporaneously with the extension of credit or offered through direct mail
- 21 advertisements, the disclosure shall be presented to the consumer in a clear and
- 22 conspicuous manner; or
- 23 (2) in conjunction with the offer of credit insurance by telephone and
- 24 contemporaneously with the extension of credit or subsequent to the extension of credit
- 25 by other than direct mail advertisements, the initial disclosure may be provided orally
- 26 as long as written disclosure is provided to the debtor not later than 10 days after the
- 27 offer or the date any other written material is provided to the debtor, whichever occurs
- 28 first.
- 29 (c) If the debtor elects to purchase coverage, the delivery of the disclosure
- 30 required in (b) of this section shall be acknowledged by the debtor at the time of
- 31 delivery, and the insurer shall maintain the debtor's written acknowledgement for at

1 least five years.

2 * **Sec. 86.** AS 21.57.060 is repealed and reenacted to read:

3 Sec. 21.57.060. PROVISIONS OF POLICIES AND CERTIFICATES OF
4 INSURANCE. (a) Consumer credit insurance shall be evidenced by an individual
5 policy or a group certificate of insurance.

6 (b) The individual policy or group certificate must, in addition to other
7 requirements of law, set out

8 (1) the name and home office address of the insurer;

9 (2) the name of the debtor;

10 (3) the premium to be paid by the debtor disclosed separately for each
11 kind of coverage or for all coverage in a package, except that for open-ended loans,
12 the premium rate and the basis of premium calculation must be specified;

13 (4) a full description of the coverage including the amount, the term,
14 and any exceptions, limitations, or exclusions;

15 (5) a statement that the benefits shall be paid to the creditor to reduce
16 or extinguish the unpaid debt and that, whenever the amount of insurance benefit
17 exceeds the unpaid debt, the excess is payable to the debtor, a beneficiary other than
18 the creditor named by the debtor, or the debtor's estate;

19 (6) an explanation of how refunds are calculated in the event of policy
20 termination; and

21 (7) if the benefit is not adequate to completely pay off the debt existing
22 on the date of death or disability, a statement to that effect on the face of the
23 individual policy or group certificate in not smaller than 10 point, bold face type.

24 * **Sec. 87.** AS 21.57.070 is repealed and reenacted to read:

25 Sec. 21.57.070. REQUIREMENTS FOR EVIDENCE OF INSURANCE. (a)
26 Unless the individual policy or group certificate of insurance is delivered to the debtor
27 at the time the debt is incurred or when the debtor elects to purchase coverage, a copy
28 of the application for the policy or a notice of proposed insurance, signed by the
29 debtor and setting out (1) the name and home office address of the insurer, (2) the
30 name of the debtor, (3) the premium rate to be paid by the debtor for the insurance,
31 and (4) the amount, term, and a brief description of the coverage provided, shall be

1 delivered to the debtor at the time the debt is incurred or the election to purchase
2 coverage is made, or, within 10 days from the date of the election to purchase
3 coverage, if the election to purchase coverage is made by telephone. The copy of the
4 application for or notice of proposed insurance must refer exclusively to insurance
5 coverage and must be separate and apart from the loan, sale, other credit statement of
6 account, instrument, or agreement, unless the information required by this subsection
7 is prominently set out in it. Upon acceptance of the insurance by the insurer and
8 within 30 days of the date upon which the debt is incurred or the election to purchase
9 coverage is made, the insurer shall deliver the individual policy or group certificate of
10 insurance to the debtor. The application or notice of proposed insurance must state
11 that upon acceptance by the insurer, the insurance shall become effective as provided
12 in AS 21.57.050(a).

13 (b) The application or notice of proposed insurance may be used to fulfill all
14 of the requirements of AS 21.57.055(a) and 21.57.060(b) if it contains all of the
15 information required by those subsections.

16 (c) A debtor has 30 days from the date the debtor receives the individual
17 policy or the group certificate to review the coverage purchased. At any time within
18 the 30-day period, the debtor may contact the creditor or insurer issuing the policy or
19 certificate and request that the coverage be cancelled. An individual policy or group
20 certificate may require the request be in writing, that the policy or certificate be
21 returned to the insurer, or both. If a policy is cancelled, the insurer shall return a full
22 refund or credit of all premiums or insurance charges to the debtor within 30 days.

23 (d) If the named insurer does not accept the risk, the debtor shall receive a
24 policy or certificate of insurance listing the name and home office address of the
25 substituted insurer and the amount of the premium to be charged. If the amount of
26 premium is less than the amount in the notice of proposed insurance, the insurer shall
27 issue an appropriate refund within 30 days. If the risk is not accepted by an insurer,
28 a premium paid by the debtor shall be refunded or credited to the debtor within 30
29 days of the date of application.

30 (e) For the purposes of (a) of this section, an individual policy or group
31 certificate delivered in conjunction with an open-end consumer credit agreement or

1 consumer credit insurance requested by the debtor after the date of the debt is
2 considered to be delivered at the time the debt is incurred or election to purchase
3 coverage is made if the delivery occurs within 30 days of the date the insurance is
4 effective.

5 (f) An individual policy or group certificate delivered in conjunction with an
6 open-end consumer credit agreement shall continue from its effective date through the
7 term of the agreement unless the individual policy or group certificate is terminated
8 under its terms at an earlier date.

9 * **Sec. 88.** AS 21.57.080 is repealed and reenacted to read:

10 Sec. 21.57.080. FILING OF FORMS AND RATES. (a) An insurance policy,
11 certificate of insurance, notice of proposed insurance, insurance disclosure notice,
12 application for insurance, endorsement, and rider delivered or issued for delivery in
13 this state, and the applicable schedules of premium rates shall be filed with the director
14 before being used.

15 (b) A document required to be filed under (a) of this section must be on file
16 for a waiting period of 30 days before it is used or becomes effective, unless the
17 director gives prior written approval. This period may be extended for an additional
18 30 days if the director gives written notice within the waiting period to the insurer
19 making the filing. The director shall disapprove a filing if the premium rate charged
20 is not reasonable in relation to benefits or if it contains provisions that are unjust,
21 unfair, inequitable, misleading, deceptive, encourage misrepresentation of the policy,
22 or are contrary to a provision of this title or a regulation adopted under this title. A
23 filing is considered to be approved unless it is disapproved by the director within the
24 waiting period. In determining the reasonableness of premium rates in relation to
25 benefits, the director may consider claim costs, general and administrative expenses,
26 reasonable compensation to producers, profit, or other relevant data.

27 (c) If the director notifies the insurer that a document required to be filed
28 under (a) of this section is disapproved, the insurer may not issue or use any part of
29 the document. In providing notice of disapproval to the insurer, the director shall
30 specify the reason for disapproval and indicate that the insurer is entitled to a hearing.

31 (d) The director may, at any time after a hearing, withdraw approval of a filing

1 on the grounds specified under (b) of this section. The director shall provide the
2 insurer at least 20 days' prior written notice of a hearing scheduled by the director, and
3 the notice of the hearing must state the reason for the proposed withdrawal.

4 (e) An insurer may not issue or use a document required to be filed under (a)
5 of this section after the effective date of a withdrawal of approval under (d) of this
6 section.

7 (f) If a group policy of consumer credit insurance (1) has been delivered in
8 this state before July 1, 1995, or (2) has been or is delivered in another state before
9 or after July 1, 1995, the insurer shall be required to file only the group certificate and
10 notice of proposed insurance delivered or issued for delivery in this state as specified
11 in AS 21.57.060(b) and 21.57.070(a).

12 (g) Consumer credit insurance forms used for insurance described under (f) of
13 this section shall be approved by the director if they conform with the requirements
14 specified in this section and if the schedules of premium rates applicable to the
15 insurance evidenced by the certificate or notice are in accordance with the insurer's
16 schedules of premium rates filed with the director. An item required to be filed under
17 (a) of this section shall also be filed as specified in this chapter unless the item relates
18 to a group policy that is delivered in another state and the director has determined that
19 the other state has substantially similar statutes or regulations to this chapter. Upon
20 this determination, the items required to be filed under (a) of this section shall be filed
21 for informational purposes. If the director subsequently determines that the
22 informational filing is not in compliance with the requirements of this chapter, the
23 insurer may not use the insurance policy, form, certificate, notice of proposed
24 insurance, disclosure notice, advertisement, application for insurance, endorsement, or
25 rider.

26 * **Sec. 89.** AS 21.57.090 is amended to read:

27 Sec. 21.57.090. PREMIUMS AND REFUNDS. (a) An insurer may revise its
28 schedules of premium rates from time to time, and file the revised schedules with the
29 director. An insurer may not issue a consumer credit [LIFE INSURANCE POLICY
30 OR CREDIT DISABILITY] insurance policy for which the premium rate differs from
31 [EXCEEDS] that determined by the schedules of the insurer then approved by [ON

1 FILE WITH] the director.

2 (b) An [EACH] individual policy or group certificate must provide **for a**
3 **refund of all unearned premiums** [THAT] if the insurance is terminated before the
4 scheduled maturity date of the **insurance and notice of termination is given to the**
5 **insurer. The** [INDEBTEDNESS, ANY] refund of an amount paid by the debtor for
6 insurance shall be paid or credited promptly to the person entitled to it; provided,
7 however, that the director shall prescribe a minimum refund and a [NO] refund that
8 would be less than the minimum need **not** be made. **A refund formula that an**
9 **insurer desires to use must provide refunds that are at least as favorable to the**
10 **debtor as refunds based on the rule of anticipation.** The formula to be used in
11 computing refunds shall be filed with and approved by the director.

12 (c) If a creditor requires a debtor to make a payment for consumer credit
13 [LIFE INSURANCE OR CREDIT DISABILITY] insurance and an individual policy
14 or group certificate of insurance is not issued, the creditor shall immediately give
15 written notice to the debtor and shall promptly make an appropriate credit to the
16 account **or issue a refund.**

17 (d) The amount charged to a debtor for consumer credit [LIFE OR CREDIT
18 DISABILITY] insurance may not exceed the premium charged by the insurer, as
19 computed at the time the charge to the debtor is determined.

20 * **Sec. 90.** AS 21.57.090 is amended by adding a new subsection to read:

21 (e) Nothing in this chapter may be construed to authorize a payment for
22 insurance prohibited under other provisions of law governing credit transactions.

23 * **Sec. 91.** AS 21.57.120 is amended to read:

24 Sec. 21.57.120. **SELECTION RIGHTS OF INSURED** [EXISTING
25 INSURANCE]. When consumer credit [LIFE INSURANCE OR CREDIT
26 DISABILITY] insurance is required as additional security for **a debt** [AN
27 INDEBTEDNESS], the debtor shall, upon request to the creditor, have the option of
28 furnishing the required amount of insurance through existing policies of insurance
29 owned or controlled by the debtor or of procuring and furnishing the required coverage
30 through an insurer authorized to transact an insurance business in this state.

31 * **Sec. 92.** AS 21.57 is amended by adding a new section to read:

1 Sec. 21.57.125. DUTIES OF AN INSURER. Except as otherwise prohibited
2 by law, duties imposed upon an insurer by this chapter may be carried out by a
3 creditor if the creditor is licensed under AS 21.27 as an insurance producer, a
4 managing general agent, or a third-party administrator, and transacts business within
5 the scope of its license on behalf of the insurer.

6 * **Sec. 93.** AS 21.57.150 is repealed and reenacted to read:

7 Sec. 21.57.150. PENALTIES. (a) In addition to any other penalty provided
8 by law, a person licensed under AS 21.27 that the director determines under
9 AS 21.06.170 - 21.06.240 has violated the provisions of this chapter is subject to

10 (1) a civil penalty equal to the compensation promised, paid, or to be
11 paid, directly or indirectly, to the licensee in regard to a violation;

12 (2) either a civil penalty of not more than \$10,000 for a violation or,
13 if the director determines that the person wilfully violated the provisions of this
14 chapter, a civil penalty of not more than \$25,000 for a violation; and

15 (3) denial, nonrenewal, suspension, or revocation of a license.

16 (b) In addition to any other penalty provided by law, an insurer that the
17 director determines under AS 21.06.170 - 21.06.240 has violated the provisions of this
18 chapter is subject to

19 (1) a civil penalty equal to the premium earned, directly or indirectly,
20 by the insurer in regard to a violation;

21 (2) either a civil penalty of not more than \$10,000 for a violation or,
22 if the director determines that the insurer wilfully violated the provisions of this
23 chapter, a civil penalty of not more than \$25,000 for a violation; and

24 (3) denial, suspension, or revocation of a certificate of authority.

25 (c) In addition to any other penalty provided by law, any person that the
26 director determines under AS 21.06.170 - 21.06.240 has violated the provisions of this
27 chapter is subject to

28 (1) either a civil penalty of not more than \$10,000 for a violation or,
29 if the director determines that the person wilfully violated the provisions of this
30 chapter, a civil penalty of not more than \$25,000 for a violation; and

31 (2) denial of a license.

1 * **Sec. 94.** AS 21.57.160 is repealed and reenacted to read:

2 Sec. 21.57.160. DEFINITIONS. In this chapter,

3 (1) "agriculture credit transaction commitment" means a binding
4 agreement to loan money up to a fixed amount as needed for agricultural purposes;

5 (2) "compensation" means commissions, dividends, retrospective rate
6 credits, service fees, expense allowances or reimbursements, gifts, furnishing
7 equipment, facilities, goods, or services, or any other form of remuneration resulting
8 directly from the sale of consumer credit insurance;

9 (3) "consumer credit insurance" means credit life insurance, credit
10 disability insurance, or credit unemployment insurance;

11 (4) "credit disability insurance" means insurance on a debtor to provide
12 indemnity for payments or debt becoming due on a specific loan or other credit
13 transaction while the debtor is disabled;

14 (5) "credit life insurance" means insurance on the life of a debtor under
15 or in connection with all or a part of a specific loan or other credit transaction;

16 (6) "credit unemployment insurance" means insurance on a debtor to
17 provide indemnity for payments or debt becoming due on a specific loan or other
18 credit transaction while the debtor is involuntarily unemployed;

19 (7) "credit transaction" means a transaction by which the repayment for
20 money loaned or a loan commitment made or payment for goods, services, or
21 properties sold or leased is made at a future date;

22 (8) "creditor" means a person who lends money or who sells or leases
23 goods, services, property, rights, or privileges, for which payment is arranged through
24 a credit transaction, and includes a person who is a successor to the right, title, or
25 interest of the lender, seller, or lessor;

26 (9) "debtor" means a person who borrows money, or purchases or
27 leases goods, services, property, rights, or privileges for which payment is arranged
28 through a credit transaction;

29 (10) "educational credit transaction commitment" means a binding
30 agreement to loan money up to a fixed amount as needed for educational purposes;

31 (11) "gross debt" means the total of the remaining payments owed to

1 the creditor by the debtor;

2 (12) "identifiable charge" means a charge for consumer credit insurance
3 that is made to a debtor having the benefit of the insurance, including a charge for
4 insurance that is disclosed in the consumer credit agreement or other instrument
5 furnished to the debtor that sets out the financial elements of the credit transaction, and
6 any difference in the finance, interest, service, or other similar charge made to a debtor
7 in a like circumstance, except for their insured or noninsured status;

8 (13) "net debt" means the amount necessary to liquidate the remaining
9 debt in a single lump sum payment, excluding all unearned finance charges;

10 (14) "open-end consumer credit" means consumer credit extended by
11 a creditor under an agreement in which

12 (A) the creditor reasonably contemplates repeated transactions;

13 (B) the creditor imposes a periodic finance charge on an
14 outstanding unpaid balance; and

15 (C) the amount of consumer credit that may be extended to the
16 debtor during the term of the agreement, up to any limit set by the creditor, is
17 generally made available to the extent that any outstanding balance is repaid;

18 (15) "rule of anticipation" means a refund method that results in
19 refunds equal to the premium cost of scheduled benefits subsequent to the date of
20 cancellation or termination, computed at the schedule of premium rates in effect on the
21 date of issue.

22 * **Sec. 95.** AS 21.69 is amended by adding new sections to read:

23 Sec. 21.69.645. REDOMESTICATION. (a) An insurer organized under the
24 laws of another state and admitted to do business in this state may become a domestic
25 insurer of this state by complying with the requirements of this title relative to the
26 organization and licensing of a domestic insurer and by designating its principal place
27 of business at a place in this state.

28 (b) A domestic insurer may, upon approval of the director, transfer its domicile
29 to another state in which it is admitted to transact the business of insurance. Upon a
30 transfer as described in this subsection, the insurer shall cease to be a domestic insurer
31 of this state, but shall be considered admitted to this state. The insurer shall meet the
32 qualifications to remain admitted to this state for a period of three years or, if ordered

1 by the director, a longer period. The director may approve a proposed transfer unless
2 the transfer is not in the interest of the policyholders of the insurer or the insurance
3 marketplace of this state.

4 (c) Upon transfer of domestic status to or from this state, the certificate of
5 authority, appointments under AS 21.27.100, rates, and other items that the director
6 allows, and that are in existence at the time the insurer is licensed to transact the
7 business of insurance in this state, shall continue in full force and effect and the insurer
8 shall remain duly qualified to transact the business of insurance in this state.
9 Outstanding policies of a transferring insurer shall remain in full force and effect and
10 shall be endorsed with the new name of the company, its new location, and any other
11 information the director may require. A transferring insurer shall notify the director of
12 the details of the proposed transfer 30 days before the effective date of the transfer and
13 shall promptly file any resulting amendments to corporate documents filed or required
14 to be filed with the director.

15 (d) A transfer of domestic status by merger, consolidation, or any other lawful
16 method of combination must meet the requirements of AS 21.69.590 or 21.69.600. The
17 certificate of authority, appointments under AS 21.27.100, rates, and other items that the
18 director allows, and that are in existence at the time the insurer is licensed to transact the
19 business of insurance in this state, shall continue in full force and effect and the insurer
20 shall remain duly qualified to transact the business of insurance in this state.
21 Outstanding policies of a domestic insurer being merged, consolidated, or otherwise
22 combined shall remain in full force and effect and shall be endorsed with the new name
23 of the company, its new location, and any other information the director may require.

24 (e) An insurer that is transferring its domicile to this state shall file its revised
25 policy forms for approval under AS 21.42.

26 (f) A domestic insurer that is transferring its domicile to another state is not
27 required to file policy forms at the time of transfer if the forms have already been
28 approved under AS 21.42.

29 Sec. 21.69.648. VOLUNTARY SURRENDER OF CERTIFICATE OF
30 AUTHORITY. To voluntarily surrender the certificate of authority of a domestic insurer,
31 a request shall be made to the director to extinguish the certificate of authority six
32 months before the planned effective date of the extinguishment of the charter. Before

1 the request is granted, the director shall conduct an examination under AS 21.06.120.
2 The examination shall be completed within 12 months before the effective date of an
3 extinguishment and all issues contained in the examination report must be resolved to
4 the satisfaction of the director. Insurance business of the domestic insurer shall be
5 cancelled or reinsured as required under AS 21.69.610 or 21.69.620.

6 * **Sec. 96.** AS 21.72 is amended by adding a new section to read:

7 Sec. 21.72.125. QUARTERLY STATEMENTS. The director may require a
8 benevolent association to file quarterly financial statements as provided in AS 21.09.205.

9 The statements must exhibit the items and facts required under AS 21.72.120(a).

10 * **Sec. 97.** AS 21.75 is amended by adding a new section to read:

11 Sec. 21.75.135. QUARTERLY STATEMENTS. (a) The director may require
12 a reciprocal insurer's attorney-in-fact to file a quarterly financial statement as provided
13 in AS 21.09.205.

14 (b) A statement required under (a) of this section shall be supplemented by
15 information that may be required by the director relative to the affairs and transactions
16 of the attorney-in-fact that relate to the reciprocal insurer.

17 * **Sec. 98.** AS 21.75.170(e) is amended to read:

18 (e) Special meetings of the committee may be called by the attorney-in-fact, the
19 chair of the committee, three members of the committee, or a signed petition of at least
20 one percent of the subscribers **or three individual subscribers, whichever is greater,**
21 as of the most recent annual report of the reciprocal insurer.

22 * **Sec. 99.** AS 21.75.170 is amended by adding a new subsection to read:

23 (g) Notwithstanding (a) of this section, a domestic reciprocal insurer transacting
24 all of its insurance activities on a subject resident, located, or to be performed in this
25 state may, with the prior written approval of the director, have a subscriber's advisory
26 committee that consists of not less than five individuals who are elected by the
27 subscribers, and who otherwise meet the requirements of (a) of this section.

28 * **Sec. 100.** AS 21.78.130(g) is amended to read:

29 (g) If it appears to the receiver that there has been a violation of civil or criminal
30 law, or breach of a contractual or fiduciary obligation detrimental to the insurer by an
31 officer, manager, **insurance producer** [AGENT, BROKER], employee, or other person,
32 the receiver may pursue all appropriate legal remedies on behalf of the insurer.

1 * **Sec. 101.** AS 21.78.271(a) is amended to read:

2 (a) An

3 (1) **insurance producer** [AGENT, BROKER], premium finance
4 company, or any other person, other than the insured, responsible for the payment of a
5 premium is obligated to pay an unpaid earned premium due the insurer at the time of the
6 declaration of insolvency, as shown on the records of the insurer; neither a credit nor a
7 setoff is allowed to an **insurance producer** [AGENT, BROKER,] or premium finance
8 company for an amount advanced to the insurer by the **insurance producer** [AGENT,
9 BROKER,] or premium finance company on behalf of, but in the absence of a payment
10 by, the insured;

11 (2) insured is obligated to pay an unpaid earned premium due the insurer
12 at the time of the declaration of insolvency, as shown on the records of the insurer.

13 * **Sec. 102.** AS 21.79.900(6) is amended to read:

14 (6) "member insurer" means an insurer licensed to transact insurance in
15 the state that issues a policy described in AS 21.79.020(a) and (b), or a subscriber
16 contract providing benefits described in AS 21.87.120(a)(2) - (4) or 21.87.130(a)(2) and
17 (3), and includes an insurer whose license or certificate of authority in this state may
18 have been suspended, revoked, not renewed, or voluntarily withdrawn; "member insurer"
19 does not include

20 (A) a health maintenance organization **licensed under AS 21.86;**

21 (B) a fraternal benefit society **licensed under AS 21.84;**

22 (C) a mandatory state pooling plan;

23 (D) a mutual assessment company or an entity that operates on
24 an assessment basis;

25 (E) an insurance exchange **licensed under AS 21.75;** or

26 (F) a **nonprofit** hospital or medical service organization **licensed**
27 **under AS 21.87;**

28 * **Sec. 103.** AS 21.80.020 is amended by adding a new subsection to read:

29 (b) This chapter does not apply to a risk retention group formed under 15 U.S.C.
30 3901 - 3906 (Liability Risk Retention Act).

31 * **Sec. 104.** AS 21.84.340 is amended by adding a new subsection to read:

32 (d) The director may require a society to file quarterly financial statements. If

1 quarterly financial statements are required, the statements must follow for a given quarter
2 the reporting specified in the quarterly financial statement blank form and instructions
3 most recently approved by the National Association of Insurance Commissioners.

4 * **Sec. 105.** AS 21.86.080 is amended by adding new subsections to read:

5 (b) The director may require a health maintenance organization to file quarterly
6 financial statements. If quarterly financial statements are required, the statements must
7 follow for a given quarter the reporting specified in the quarterly financial statement
8 blank form and instructions most recently approved by the National Association of
9 Insurance Commissioners.

10 (c) A filing under this section is subject to AS 21.09.200 and 21.09.205.

11 * **Sec. 106.** AS 21.89.030 is amended to read:

12 Sec. 21.89.030. PAYMENT. An insurance company doing business in this state
13 may not pay a judgment or settlement of a claim in this state for a loss incurred in this
14 state with an instrument other than a negotiable bank check payable on demand and
15 bearing even date with the date of writing or by electronic funds transfer.

16 * **Sec. 107.** AS 21.89 is amended by adding new sections to read:

17 Sec. 21.89.080. ELECTRONIC DATA TRANSFER. The director may adopt
18 regulations to facilitate electronic data transfer. Electronic data transferred under
19 regulations may, at the discretion of the director, be in place of another method of filing
20 or communication otherwise required under this title.

21 Sec. 21.89.090. RISK RETENTION GROUPS AND PURCHASING GROUPS.

22 (a) A risk retention group or a purchasing group formed under and in compliance with
23 15 U.S.C. 3901 - 3906 (Liability Risk Retention Act) shall register with the director and
24 shall at all times transact business in compliance with federal law and with the laws of
25 this state that are not preempted by federal law.

26 (b) A risk retention group or a purchasing group shall apply for initial
27 registration on forms prescribed by the director. Payment of a registration fee established
28 under AS 21.06.250 shall be submitted with the application.

29 (c) A risk retention group or a purchasing group may continue its registration
30 if it is in compliance with federal law. Payment of an annual continuation fee
31 established under AS 21.06.250 shall be submitted with the continuation application.

32 (d) A risk retention group holding a valid certificate of authority as a domestic

insurer or a purchasing group duly licensed under AS 21.27 as a resident license is not required to be additionally registered under this section.

(e) In addition to any other penalty provided by law, a person that the director determines under AS 21.06.170 - 21.06.240 has violated a provision of this title relative to a risk retention group or a purchasing group is subject to a civil penalty of not more than \$10,000 for a violation or, if the director determines that the person wilfully violated a provision of this title, a civil penalty of not more than \$25,000 for a violation.

(f) The director may adopt regulations on the operation and reporting requirements of a risk retention group that are not in conflict with 15 U.S.C. 3901 - 3906 (Liability Risk Retention Act).

Sec. 21.89.100. APPOINTMENT OF INDEPENDENT COUNSEL; CONFLICTS OF INTEREST. (a) If an insurer has a duty to defend an insured under a policy of insurance and a conflict of interest arises that imposes a duty on the insurer to provide independent counsel to the insured, the insurer shall provide independent counsel to the insured unless the insured in writing waives the right to independent counsel. An insurance policy may contain a provision that provides a method of selecting independent counsel if the provision complies with this section.

(b) For purposes of this section, the following do not constitute a conflict of interest:

- (1) a claim of punitive damages;
- (2) a claim of damages in excess of the policy limits;
- (3) claims or facts in a civil action for which the insurer denies coverage.

(c) Notwithstanding (b) of this section, if the insurer reserves the insurer's rights on an issue for which coverage is denied, the insurer shall provide independent counsel to the insured as provided under (a) of this section.

(d) If the insured selects independent counsel at the insurer's expense, the insurer may require that the independent counsel have at least four years of experience in civil litigation, including defense experience in the general subject area at issue in the civil action, and malpractice insurance. Unless otherwise provided in the insurance policy, the obligation of the insurer to pay the fee charged by the independent counsel is limited to the rate that is actually paid by the insurer to an attorney in the ordinary course of business in the defense of a similar civil action in the community in which the claim

1 arose or is being defended. A dispute between the insurer and insured regarding attorney
2 fees that is not resolved by the insurance policy or this section shall be resolved by
3 arbitration under AS 09.43.

4 (e) If the insured selects independent counsel at the insurer's expense, the
5 independent counsel and the insured shall consult with the insurer on all matters relating
6 to the civil action and shall disclose to the insurer in a timely manner all information
7 relevant to the civil action, except information that is privileged and relevant to disputed
8 coverage. A claim of privilege is subject to review in the appropriate court. Information
9 disclosed by the independent counsel or the insured does not waive another party's right
10 to assert privilege.

11 (f) An insured may waive the right to select independent counsel by signing a
12 statement that reads substantially as follows:

13 I have been advised of my right to select independent counsel to
14 represent me in this lawsuit and of my right under state law to
15 have all reasonable expenses of an independent counsel paid by
16 my insurer. I have also been advised that the Alaska Supreme
17 Court has ruled that when an insurer defends an insured under
18 a reservation of rights provision in an insurance policy, there are
19 various conflicts of interest that arise between an insurer and an
20 insured. I have considered this matter fully and at this time I am
21 waiving my right to select independent counsel. I have
22 authorized my insurer to select a defense counsel to represent me
23 in this lawsuit.

24 (g) If an insured selects independent counsel under this section, both the counsel
25 representing the insurer and independent counsel representing the insured shall be
26 allowed to participate in all aspects of the civil action. Counsel for the insurer and
27 insured shall cooperate fully in exchanging information that is consistent with ethical and
28 legal obligations to the insured. Nothing in this section relieves the insured of the duty
29 to cooperate fully with the insurer as required by the terms of the insurance policy.

30 * **Sec. 108.** AS 21.90.900(26) is amended to read:

31 (26) "managing general agent" means a person, firm, or corporation that

32 (A) has authority to exercise general supervision over the

1 business, or any part of the business, of one or more admitted insurers; and
2 (B) performs administrative functions normally performed by the
3 insurer including claims administration and payment, marketing administration,
4 agent appointment, premium accounting, premium billing, coverage verification,
5 final underwriting authority, or [AND] certificate issuance;

6 * **Sec. 109.** AS 21.90.900(28) is amended to read:

7 (28) "person" has the meaning given in AS 01.10.060 and includes an
8 insurer, Lloyd's, fraternal benefit society, medical service, or hospital service plan as
9 defined in AS 21.87, reciprocal or interinsurance exchange, syndicate, and any other
10 legal entity engaged in the business of transacting insurance [, INCLUDING AGENTS,
11 BROKERS, AND CLAIMS ADJUSTERS];

12 * **Sec. 110.** AS 28.20.580 is amended to read:

13 Sec. 28.20.580. ASSIGNED RISK PLANS. After consultation with the
14 insurance companies authorized to issue motor vehicle liability policies in this state, the
15 director of the division of insurance shall approve a reasonable plan, fair to the insurers
16 and equitable to their policyholders, for the apportionment among these companies of
17 applicants for motor vehicle policies and other vehicle coverages who are in good faith
18 entitled to but are unable to procure policies through ordinary methods. When a plan is
19 approved, all the insurance companies shall subscribe to it and participate in it, **except**
20 **a reciprocal insurer formed by and only insuring a group of municipalities or**
21 **nonprofit utilities under AS 21.75, or a reciprocal insurer formed under AS 21.75**
22 **to provide marine insurance.** An applicant for an assigned risk policy, a person
23 insured under an assigned risk plan, and an insurance company affected may appeal to
24 the commissioner of commerce and economic development from a ruling or decision of
25 the authority designated to operate the plan. Failure to adopt an assigned risk plan does
26 not relieve any person from responsibility under this chapter.

27 * **Sec. 111.** AS 39.25.110 is amended by adding a new paragraph to read:

28 (30) a person employed as an actuary or assistant actuary by the division
29 of insurance in the Department of Commerce and Economic Development.

30 * **Sec. 112.** AS 21.18.110(b)(3); AS 21.27.650(f)(3); and AS 21.36.420 are repealed.

31 * **Sec. 113.** AS 21.57.110 and 21.57.170 are repealed.

32 * **Sec. 114.** AS 21.09.300(c), enacted in sec. 16 of this Act, has the effect of amending

1 Alaska Rule of Civil Procedure 45, by providing that certain insurer reports of material
2 transactions are not subject to subpoena.

3 * **Sec. 115.** TRANSITION. This Act applies to a policy of insurance that is entered into or
4 renewed on or after the effective date of the relevant provision of this Act.

5 * **Sec. 116.** Sections 71 and 110 of this Act are retroactive to January 1, 1983.

6 * **Sec. 117.** Sections 1, 2, 80 - 94, and 113 of this Act take effect October 1, 1995.

7 * **Sec. 118.** Except as provided in secs. 116 and 117 of this Act, this Act takes effect July 1,
8 1995.