

**CS FOR HOUSE BILL NO. 398(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 3/30/00**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVE HARRIS**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to the Alaska Life and Health Insurance Guaranty Association."**

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

**3 \* Section 1.** AS 21.79.010 is repealed and reenacted to read:

**4           Sec. 21.79.010. Purpose.** The purpose of this chapter is to protect, subject to  
**5** certain limitations, the persons specified in AS 21.79.020(a) against failure in the  
**6** performance of contractual obligations under life insurance and health insurance  
**7** policies and annuity contracts specified in AS 21.79.020(b) because of the impairment  
**8** or insolvency of the member insurer that issued the policies or contracts. To provide  
**9** this protection, an association of insurers is created under AS 21.79.040 to pay benefits  
**10** and continue coverages as limited by this chapter, and members of the association are  
**11** subject to assessment to provide funds to carry out the purpose of this chapter.

**12 \* Sec. 2.** AS 21.79.020(a) is amended to read:

**13           (a)** This chapter applies to a policy and contract specified in (b) of this section  
**14** and to a person who

**15           (1)** except for a nonresident certificate holder under a group policy or

contract, is the beneficiary, assignee, or payee of a person described in (2) of this subsection; and

(2) except in the case of an unallocated annuity contract or a structured settlement annuity, is the owner of, or a certificate holder under, the policy or contract, [OR, IN THE CASE OF AN UNALLOCATED ANNUITY CONTRACT, IS THE CONTRACT HOLDER,] and who

(A) is a resident; [,] or

(B) is not a resident, if the following conditions are satisfied:

(i) the insurer that issued the policy or contract is domiciled in this state;

(ii) [THE INSURER NEVER HELD A LICENSE OR CERTIFICATE OF AUTHORITY IN THE STATE IN WHICH THE PERSON RESIDES;

(iii)] the state in which the person resides has an association similar to the association created by this chapter; and

(iii) [(iv)] the person is not eligible for coverage by an association in any other state due to the fact that the insurer was not licensed as required by law in that state [OF THE ASSOCIATION OF THE STATE IN WHICH THE PERSON RESIDES].

\* Sec. 3. AS 21.79.020(c) is amended to read:

(c) This chapter does not apply to

(1) that part of a policy or contract that is not guaranteed by the insurer;

(2) that part of the risk borne by the policy or contract holder;

(3) a policy or contract of reinsurance, unless an assumption certificate has been issued;

(4) that part of a policy or contract to the extent that [ON WHICH] the rate of interest on which it is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value,

(A) averaged over the period of four years before the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever occurs first [ASSOCIATION BECOMES OBLIGATED WITH RESPECT TO THE POLICY OR CONTRACT], exceeds the [A] rate of interest determined by subtracting two percentage points from the published monthly average for that same four-year period or for a lesser period if the policy or contract was issued less than four years before the member insurer becomes an impaired or insolvent insurer under this chapter, whichever occurs first [ASSOCIATION BECAME OBLIGATED]; and

(B) on and after the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever occurs first [ASSOCIATION BECOMES OBLIGATED WITH RESPECT TO THE POLICY OR CONTRACT], exceeds the rate of interest determined by subtracting three percentage points from the most recent published monthly average;

(5) a plan or program of an employer, association, or similar entity to provide life, health, or an annuity benefit to an employee or member, to the extent that the plan or program is self-funded or uninsured, including a benefit payable by the employer, association, or similar entity under

(A) a multiple employer welfare arrangement as defined in 29 U.S.C. 1002 [26 U.S.C. 414] (Employee Retirement Income Security Act of 1974);

(B) a minimum premium group insurance plan;

(C) a stop-loss group insurance plan; or

(D) an administrative services only contract;

(6) that part of a policy or contract that provides a dividend or experience rating credit or voting rights, or provides that a fee or allowance be paid to a person, including the policy or contract holder, in connection with the service to or administration of the policy or contract; [AND]

(7) a policy or contract issued in this state by a member insurer at a

time when it was not licensed or did not have a certificate of authority to issue the policy or contract in this state;

(8) a person who is a payee or beneficiary of a contract holder who is a resident of this state if the payee or beneficiary is provided coverage by the association of another state;

(9) a person covered under (e) of this section if any coverage is provided by the association of another state to that person;

(10) an unallocated annuity contract issued to or in connection with a plan protected under the United States Pension Benefit Guaranty Corporation, regardless of whether the United States Pension Benefit Guaranty Corporation has become liable to make any payments with respect to the benefit plan;

(11) that part of an unallocated annuity contract that is not issued to or in connection with a specific employee, union, or association of natural persons benefit plan or a government lottery;

(12) that part of a policy or contract to the extent that assessments required by AS 21.79.070 with respect to the policy or contract are preempted by law;

(13) an obligation that does not arise under the express written terms of the policy or contract issued by the insurer to the contract owner or policy owner, including, without limitation,

(A) a claim based on marketing materials;

(B) a claim based on a side letter or other document that was issued by the insurer without meeting applicable policy form filing or approval requirements;

(C) a misrepresentation of or regarding policy benefits;

(D) an extra contractual claim; or

(E) a claim for penalties or consequential or incidental damages;

(14) a contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the

benefit plan or its trustee, which, in each case, is not an affiliate of the member insurer; or

(15) that part of a policy or contract to the extent the part of the policy or contract provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but that have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier; if a policy's or contract's interest or changes in value are credited less frequently than annually, then, for purposes of determining the values that have been credited and are not subject to forfeiture under this paragraph, the interest or change in value determined by using the procedures defined in the policy or contract shall be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture.

\* Sec. 4. AS 21.79.020 is amended by adding new subsections to read:

(e) This chapter, except for (a) of this section, applies to an unallocated annuity contract specified under (b) of this section, and shall provide coverage to a person who is the owner of

(1) the unallocated annuity contract if the contract is issued to or in connection with a specific benefit plan whose plan sponsor has its principal place of business in this state; and

(2) an unallocated annuity contract issued to or in connection with a government lottery if the owner is a resident.

(f) This chapter, except for (a) of this section, applies to a structured settlement annuity specified under (b) of this section, and shall provide coverage to a person who is a payee under a structured settlement annuity, or the beneficiary of a payee if the payee is deceased, if the payee is

(1) a resident, regardless of where the contract owner resides; or

(2) not a resident, but only if both of the following conditions exists:

(A) the contract owner of the structured settlement annuity is

1 (i) a resident; or  
 2 (ii) not a resident, but the insurer that issued the  
 3 structured settlement annuity is domiciled in this state, and the state in  
 4 which the contract owner resides has an association similar to the  
 5 association created by this chapter; and

6 (B) the payee, or the payee's beneficiary, and the contract owner  
 7 are not eligible for coverage by the association of the state in which the payee  
 8 or contract owner resides.

9 \* **Sec. 5.** AS 21.79.025 is amended to read:

10 **Sec. 21.79.025. Liability limits.** The benefits for which the association may  
 11 become liable may not exceed the lesser of

12 (1) the contractual obligations for which the insurer is liable or would  
 13 have been liable if it were not an impaired or insolvent insurer;

14 (2) with respect to any one life, regardless of the number of policies  
 15 or contracts, [AND SUBJECT TO AN AGGREGATE OF \$300,000,]

16 (A) \$300,000 in life insurance death benefits, but not more than  
 17 \$100,000 in net cash surrender and net cash withdrawal values for life  
 18 insurance;

19 (B) [\$100,000] in health insurance benefits,

20 (i) \$100,000 for coverage not defined as disability  
 21 insurance or basic hospital, medical, and surgical insurance or  
 22 major medical insurance, including any net cash surrender and net  
 23 cash withdrawal values;

24 (ii) \$300,000 for disability insurance;

25 (iii) \$500,000 for basic hospital, medical, and surgical  
 26 insurance or major medical insurance;

27 (C) \$100,000 in the present value of annuity benefits, including  
 28 net cash surrender and net cash withdrawal values; [OR]

29 (3) with respect to any one contract holder or plan sponsor whose  
 30 plan owns directly or in trust one or more unallocated annuity contracts not  
 31 included in (4) of this subsection, \$5,000,000 in unallocated annuity contract benefits,

irrespective of the number of contracts held by that contract holder or plan sponsor except that, in the case of one or more unallocated annuity contracts that are covered under this chapter and that are owned by a trust or other entity for the benefit of two or more plan sponsors, coverage shall be provided by the association if the largest interest in the trust or entity owning the contract is held by a plan sponsor whose principal place of business is in this state; however, the association is not liable to cover more than \$5,000,000 in benefits with respect to an unallocated annuity contract not included in (4) of this subsection;

(4) with respect to an individual participating in a governmental retirement benefit plan established under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26 U.S.C. 457 and covered by an unallocated annuity contract, or to a beneficiary of the individual if the individual is deceased, in the aggregate, \$100,000 in present-value annuity benefits, including net cash surrender and net cash withdrawal values; or

(5) with respect to each payee of a structured settlement annuity, or beneficiary of the payee if the payee is deceased, \$100,000 in present-value annuity benefits in the aggregate, including net cash surrender and net cash withdrawal values, if any.

\* Sec. 6. AS 21.79.025 is amended by adding new subsections to read:

(b) The limitations imposed under this section are limitations on the benefits for which the association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of an impaired or insolvent insurer attributable to covered policies. The costs of the association's obligations under this chapter may be met by the use of assets attributable to covered policies or reimbursed to the association under its subrogation and assignment rights.

(c) In providing coverage required under AS 21.79.060, the association may not be required to guarantee, assume, reinsure, or perform, or cause to be guaranteed, assumed, reinsured, or performed, the contractual obligations of an insolvent or impaired insurer under a covered policy or contract when the obligations do not materially affect the economic values or economic benefits of the covered policy or

1 contract.

2 (d) The association may not be required to cover more than

3 (1) an aggregate of \$300,000 in benefits with respect to any one life  
4 under (a)(2), (4), and (5) of this section, except that, with respect to benefits for basic  
5 hospital, medical, and surgical insurance or major medical insurance under (a)(2)(B)  
6 of this section, the aggregate liability of the association may not exceed \$500,000 for  
7 any one individual; or

8 (2) \$5,000,000 in benefits with respect to one owner or multiple  
9 nongroup policies of life insurance, whether the policy owner is an individual, firm,  
10 corporation, or other person, and whether the persons insured are officers, managers,  
11 employees, or other persons, regardless of the number of policies and contracts held  
12 by the owner.

13 \* **Sec. 7.** AS 21.79.030 is amended to read:

14 **Sec. 21.79.030. Construction.** This chapter shall be [LIBERALLY] construed  
15 to achieve the purposes set out in AS 21.79.010.

16 \* **Sec. 8.** AS 21.79.030 is amended by adding a new subsection to read:

17 (b) This chapter is intended to provide coverage to a person who is a resident  
18 of this state and, in special circumstances, to a nonresident. In order to avoid duplicate  
19 coverage, if a person who would otherwise receive coverage under this chapter is  
20 provided coverage under the law of any other state, the person may not be provided  
21 coverage under this chapter. In determining the application of the provisions of this  
22 subsection, in situations where a person could be covered by the association of more  
23 than one state, whether as an owner, payee, beneficiary, or assignee, this chapter shall  
24 be construed in conjunction with other state laws to result in coverage by only one  
25 association.

26 \* **Sec. 9.** AS 21.79.040(a) is amended to read:

27 (a) There is established as a nonprofit legal entity the Alaska Life and Health  
28 Insurance Guaranty Association. An insurer that issues an insurance policy described  
29 in AS 21.79.020(b) shall be a member of the association as a condition of the insurer's  
30 authority to transact insurance in this state. The association shall perform its functions  
31 under a plan of operation established and approved under AS 21.79.080 and shall



1 exercise its powers through the Board of Governors established under AS 21.79.050.  
 2 For purposes of administration and assessment, the association shall maintain the  
 3 following accounts:

4 (1) the health insurance account; and  
 5 (2) the life insurance and annuity account, including the following  
 6 subaccounts:

7 (A) life insurance account;

8 (B) annuity account that must include annuity contracts  
 9 owned by a governmental retirement benefit plan, or its trustee, qualified  
 10 under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26 U.S.C. 457 (Internal Revenue  
 11 Code), but that otherwise excludes unallocated annuities;

12 (C) unallocated annuity account that must exclude [SHALL  
 13 INCLUDE] contracts owned by a governmental retirement benefit plan, or  
 14 its trustee, qualified under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26 U.S.C. 457  
 15 (Internal Revenue Code).

16 \* Sec. 10. AS 21.79.050(a) is amended to read:

17 (a) The Board of Governors of the association consists of not less than five nor  
 18 more than nine representatives of member insurers. The director may appoint two  
 19 individuals as members of the board to represent the public. Terms of office for  
 20 board members shall be established in the plan of operation submitted under  
 21 AS 21.79.080. Member insurers shall select the insurer board members, subject to the  
 22 approval of the director. A vacancy in a board membership held by an insurer  
 23 member [ON THE BOARD] shall be filled for the unexpired term by a majority vote  
 24 of the remaining board members, subject to the approval of the director. A vacancy  
 25 in a board membership held by a representative of the public shall be filled by  
 26 the director. A board member who represents the public may not be an officer,  
 27 director, or employee of an insurer and may not be engaged in the business of  
 28 insurance.

29 \* Sec. 11. AS 21.79.050(b) is amended to read:

30 (b) Before the director approves the selection of an insurer [A] board member  
 31 [OR APPOINTS A BOARD MEMBER], the director shall consider whether all

1 member insurers are fairly represented on the board.

2 \* **Sec. 12.** AS 21.79.060(a) is amended to read:

3 (a) If a **member** [DOMESTIC] insurer becomes impaired, the association may,  
4 with the approval of the director **and subject to any conditions imposed by the**  
5 **association that do not impair the contractual obligations of the impaired insurer,**

6 (1) guarantee, assume, reinsure, or provide for the guarantee,  
7 assumption, or reinsurance of the policies or contracts of the impaired insurer; **or**

8 (2) provide money, pledges, notes, guarantees, or other means that are  
9 necessary to act under (1) of this subsection and to assure payment of the contractual  
10 obligations of the impaired insurer until those obligations are guaranteed, reinsured,  
11 or assumed [; OR

12 (3) LOAN MONEY TO THE IMPAIRED INSURER].

13 \* **Sec. 13.** AS 21.79.060(c) is amended to read:

14 (c) The actions specified in **(a)** [(b)] of this section may not be taken unless

15 (1) the law of the impaired insurer's state of domicile provides that until  
16 all payments of or on account of a contractual obligation of the impaired insurer by  
17 a guaranty association, along with all expenses and interest on all payments and  
18 expenses, have been repaid to the guaranty association or a repayment plan by the  
19 impaired insurer has been approved by a guaranty association,

20 (A) a delinquency proceeding may not be dismissed;

21 (B) neither the impaired insurer nor its assets may be returned  
22 to the control of its shareholders or private management; and

23 (C) solicitation or acceptance of new business or restoration of  
24 a suspended or revoked license may not be permitted; and

25 (2) if the impaired insurer is a

26 (A) domestic insurer, the insurer has been placed under an order  
27 of rehabilitation by a superior court in this state; or

28 (B) foreign or alien insurer,

29 (i) the insurer has been prohibited from soliciting or  
30 accepting new business in this state;

31 (ii) the insurer's certificate of authority has been

1 suspended or revoked in this state; and

2 (iii) a petition for rehabilitation or liquidation has been  
3 filed in a court of competent jurisdiction in the insurer's state of domicile by  
4 the insurance commissioner of that state.

5 \* **Sec. 14.** AS 21.79.060(d) is amended to read:

6 (d) If a member insurer becomes insolvent, the association shall, **in its**  
7 **discretion and** with the approval of the director,

8 (1) guarantee, assume, reinsure, or provide for the guarantee,  
9 assumption, or reinsurance of the covered policies of the insolvent insurer held by  
10 residents;

11 (2) assure payment to residents of the contractual obligations of the  
12 insolvent insurer;

13 (3) provide money, pledges, notes, guarantees, or other means necessary  
14 to discharge the **association's** [INSURER'S] duties under this subsection; or

15 (4) with respect only to life and health insurance policies **and**  
16 **annuities**, provide benefits and coverages required under (e) of this section.

17 \* **Sec. 15.** AS 21.79.060(e) is amended to read:

18 (e) When proceeding under [(b)(2) OR] (d)(4) of this section, the association  
19 shall, with respect to a life or health insurance policy **and an annuity**,

20 (1) assure payment of benefits, other than terms of conversion and  
21 renewability, for a premium identical to the premium that would have been payable  
22 under a policy of the insolvent insurer for claims incurred with respect to

23 (A) a group policy, not later than the earlier of the next renewal  
24 date under the policy or contract or 45 days, but in no event less than 30 days,  
25 after the date on which the association becomes obligated with respect to the  
26 policy;

27 (B) an individual policy **or annuity**, not later than the earlier  
28 of the next renewal date, if any, under the policy **or contract** or one year, but  
29 in no event less than 30 days, from the date on which the association becomes  
30 obligated with respect to the policy **or contract**;

31 (2) make a diligent effort to provide a known insured, **an annuitant**,

or a group policyholder **or contract holder**, with respect to a group policy **or contract**, 30 **days**' [DAYS] notice of the termination of the benefits provided;

(3) with respect to an individual policy **or annuity**, make available to each known insured **or annuitant**, or owner if other than the insured **or annuitant**, and with respect to an individual formerly insured under a group policy **or contract** who is not eligible for replacement group coverage, substitute coverage on an individual basis under the provisions of (f) of this section, if the insured had a right under law or the terminated policy **or contract** to convert coverage to individual coverage, to continue an individual policy **or contract** in force until a specified age, or for a specific time during which the insurer did not have the unilateral right to make changes in any provision of the policy **or contract** or had a right only to make changes in premium by class.

\* **Sec. 16.** AS 21.79.060(h) is amended to read:

(h) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium shall be set by the association according to the amount of insurance provided **and** [,] the age and class of risk, and is subject to the approval of the director **and the receivership** [OR BY A] court [OF COMPETENT JURISDICTION].

\* **Sec. 17.** AS 21.79.060(j) is amended to read:

(j) When proceeding under [(b)(2) OR] (d) of this section with respect to a policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with AS 21.79.020(c)(4).

\* **Sec. 18.** AS 21.79.060(n) is amended to read:

(n) In carrying out its duties under **(a)** [(b)], (c), and (d) of this section, the association may impose a permanent policy or contract lien under a guarantee, assumption, or reinsurance agreement [,] if the policy or contract lien is approved by a court [,] and the **association** [COURT] finds that

(1) the amount that may be assessed under this chapter is less than the amount needed to assure full and prompt performance of the insolvent insurer's contractual obligations; or

(2) the economic or financial condition that affects member insurers is

sufficiently adverse that the imposition of a policy or contract lien is in the public interest.

\* **Sec. 19.** AS 21.79.060(o) is amended to read:

(o) Before taking action under (a) - (e) [(b) - (e)] of this section, the association may request the superior court to impose an injunction against the payment of a cash value and policy loan, or the exercise of another right to withdraw funds held in connection with a policy or contract, in addition to a contractual provision for deferral of a cash or policy loan value. **In addition, if the receivership court imposes an injunction on payment of cash values or policy loans or on any other right to withdraw funds of an impaired or insolvent insurer held in conjunction with a policy or contract, the association may defer payment of cash values, policy loans, or other rights for the period of the injunction, except for claims covered by the association to be paid as required by a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court.**

\* **Sec. 20.** AS 21.79.060(p) is amended to read:

(p) If the association fails to take action under (a) - (e) [(b) - (e)] of this section within a reasonable period of time after a member insurer becomes insolvent, the director shall assume the powers of the association under (a) - (e) [(b) - (e)] of this section.

\* **Sec. 21.** AS 21.79.060(r) is amended to read:

(r) The association is entitled to appear **or intervene** in a court **or agency** proceeding in **this** [THE] state involving an impaired or insolvent insurer **that the association is or may be obligated to or involving a person or property against which the association may have rights.** The standing conferred by this subsection extends to all matters germane to the powers and duties of the association, including proposals to reinsure or guarantee a covered policy of the impaired or insolvent insurer and the determination of a covered policy and a contractual obligation. **The association also has the right to appear or intervene before a court or agency in another state in a proceeding involving an impaired or insolvent insurer that the association is or may be obligated to or involving a person or property against which the association may have rights.**

1 \* **Sec. 22.** AS 21.79.060(s) is amended to read:

2 (s) A person who receives benefits under this chapter is considered to have  
 3 assigned the rights under, and any cause of action against a person for losses  
 4 arising under, resulting from, or otherwise relating to, the covered policy to the  
 5 association to the extent of the benefits received under this chapter, whether the  
 6 benefits are payment of or on account of contractual obligations, continuations of  
 7 coverage, or provisions of substitute or alternative coverage. The association may  
 8 require an assignment to the association of those rights by the payees, policy or  
 9 contract owner, beneficiary, insured, or annuitant before a person receives the rights  
 10 or benefits conferred by this chapter. [THE ASSOCIATION IS SUBROGATED TO  
 11 THESE RIGHTS AGAINST THE ASSETS OF AN INSOLVENT INSURER.] The  
 12 priority of the association's subrogation right to the assets of the insolvent insurer is  
 13 the same as the priority of the person entitled to benefits under this chapter. **In**  
 14 **addition to the rights described in this subsection, the association has common law**  
 15 **rights of subrogation and any other equitable or legal remedy that would have**  
 16 **been available to the impaired or insolvent insurer or owner, beneficiary, or payee**  
 17 **of a policy with respect to the policy. These rights include, in the case of a**  
 18 **structured settlement annuity, the rights of the owner, beneficiary, or payee of the**  
 19 **annuity, to the extent of benefits received under this chapter, against a person**  
 20 **originally or by succession responsible for the losses arising from the personal**  
 21 **injury relating to the annuity or annuity payment, except for a person responsible**  
 22 **solely by reason of being an assignee in respect to a qualified assignment under**  
 23 **26 U.S.C. 130 (Internal Revenue Code). If the provisions of this subsection are**  
 24 **invalid with respect to a person or claim, the amount payable by the association**  
 25 **with respect to the related coverage obligation shall be reduced by the amount**  
 26 **realized by another person from the person or claim covered by the association.**  
 27 **If the association has provided benefits with respect to a covered obligation and**  
 28 **a person recovers amounts to which the association has rights as described in this**  
 29 **subsection, the person recovering the amounts shall pay to the association the**  
 30 **portion of the recovery attributable to the policy covered by the association.**

31 \* **Sec. 23.** AS 21.79.060(t) is amended to read:

(t) In addition to the rights and powers otherwise established in this chapter, the [THE] association may

(1) enter into contracts that are necessary or proper to carry out the provisions of this chapter;

(2) sue or be sued, and take legal action necessary or proper for recovery of an unpaid assessment under AS 21.79.070 or settlement of a claim or potential claim;

(3) borrow money to carry out the purposes of this chapter; notes or other evidence of indebtedness of the association not in default are legal investments for domestic insurers and may be carried as admitted assets;

(4) employ or retain those persons necessary to handle the financial transactions of the association and other functions under this chapter;

(5) negotiate and contract with a liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association;

(6) exercise, for the purposes of this chapter and to the extent approved by the director, the powers of a domestic life or health insurer; however, the association may not issue insurance policies or annuity contracts other than those issued to perform the contractual obligations of an impaired or insolvent insurer;

(7) take legal action to prevent the payment of improper claims;

(8) join an organization of one or more other state associations with similar purposes; [AND]

(9) determine, using reasonable business judgment, the means by which the association is to provide the benefits of this chapter in an economical and efficient manner;

(10) request information from a person seeking coverage from the association in order to determine the obligations of the association under this chapter; a person receiving a request under this paragraph shall promptly comply with the request;

(11) request information from a member insurer in order to aid in the exercise of a power under this section; a member insurer receiving a request under this paragraph shall promptly comply with the request; and

1                   (12) perform all other acts necessary or proper to implement this  
2 chapter.

3 \* **Sec. 24.** AS 21.79.060 is amended by adding new subsections to read:

4                   (u) At any time within one year after the date with the association becomes  
5 responsible for the obligations of a member insurer, the association may elect to  
6 succeed to the rights and obligations of the member insurer that accrue on or after that  
7 date and that relate to contracts covered, in whole or in part, by the association, under  
8 one or more indemnity reinsurance agreements entered into by the member insurer as  
9 a ceding insurer and selected by the association. However, the association may not  
10 exercise an election with respect to a reinsurance agreement if the receiver,  
11 rehabilitator, or liquidator of the member insurer has previously and expressly  
12 disaffirmed the reinsurance agreement. The election shall be made by a notice to the  
13 receiver, rehabilitator, or liquidator and to the affected reinsurer. If the association  
14 makes an election, the following paragraphs apply with respect to the agreement  
15 selected by the association:

16                   (1) the association is responsible for all unpaid premiums due under the  
17 agreement for periods both before and after the coverage date, and shall be responsible  
18 for the performance of all other obligations to be performed after the coverage date in  
19 each case that relates to contracts covered, in whole or in part, by the association; the  
20 association may, through reasonable allocation methods, charge contracts covered in  
21 part by the association for the costs for reinsurance in excess of the obligations of the  
22 association;

23                   (2) the association is entitled to any amounts payable by the reinsurer  
24 under the agreement with respect to losses or events that occur in periods after the  
25 coverage date and that related to the contracts covered by the association, in whole or  
26 in part, except that, upon receipt of any amounts, the association shall pay to the  
27 beneficiary under the policy or contract on account of which the amounts were paid  
28 a portion of the amount equal to the amount received by the association less

29                                 (A) the benefits paid by the association on account of the policy  
30 or contract; and

31                                 (B) the retention of the impaired or insolvent member insurer



1 applicable to the loss or event;

2 (3) within 30 days after the association's election, the association and  
 3 each indemnity reinsurer shall calculate the net balance due to or from the association  
 4 under each reinsurance agreement as of the date of the association's election; the  
 5 calculation shall give full credit to all items paid by either the member insurer, its  
 6 receiver, rehabilitator, or liquidator, or the indemnity reinsurer during the period  
 7 between the coverage date and the date of the association's election; either the  
 8 association or the indemnity reinsurer shall pay the net balance due the other within  
 9 five days of the completion of the calculation described in this paragraph; if the  
 10 receiver, rehabilitator, or liquidator has received any amounts due to the association  
 11 under (2) of this subsection, the receiver, rehabilitator, or liquidator shall remit the  
 12 same to the association as promptly as practicable; and

13 (4) if the association, within 60 days of the election, pays the premiums  
 14 due for periods both before and after the coverage date that relate to the contracts  
 15 covered by the association, in whole or in part, the reinsurer may not terminate the  
 16 reinsurance agreement to the extent the agreement relates to contracts covered by the  
 17 association, in whole or in part, and may not set off any unpaid premium due for the  
 18 periods before the coverage date against amounts due to the association.

19 (v) In the event the association transfers its obligations to another insurer, and  
 20 if the association and the other insurer agree, the other insurer shall succeed to the  
 21 rights and obligations of the association under (u) of this section, effective as of the  
 22 date agreed upon by the association and the other insurer. The other insurer shall  
 23 succeed regardless of whether the association has made the election referred to in (u)  
 24 of this section if (1) the indemnity reinsurance agreement automatically terminates  
 25 former reinsurance unless the indemnity reinsurer and the other insurer agree to the  
 26 contrary, and (2) the obligations described in (u)(2) of this section no longer apply on  
 27 and after the date the indemnity reinsurance agreement is transferred to the third-party  
 28 insurer. This subsection does not apply if the association has previously expressly  
 29 determined in writing that it will not exercise the election referred to in (u) of this  
 30 section.

31 (w) The provisions of this section apply notwithstanding any other provisions

1 of law or any provisions of an affected reinsurance agreement that provide for or  
 2 require a payment of reinsurance proceeds, on account of losses or events that occur  
 3 in periods after the coverage date, to the receiver, liquidator, or rehabilitator of the  
 4 insolvent member insurer. The receiver, liquidator, or rehabilitator remains entitled to  
 5 any amounts payable by the reinsurer under the reinsurance agreement with respect to  
 6 losses or events that occur in periods before the coverage date, subject to applicable  
 7 setoff provisions.

8 (x) Except as otherwise expressly provided in this section, nothing in this  
 9 section alters or modifies the terms and conditions of indemnity reinsurance  
 10 agreements of an insolvent member insurer. Nothing in this section

11 (1) abrogates or limits the right of a reinsurer to claim that the reinsurer  
 12 is entitled to rescind a reinsurance agreement; or

13 (2) gives a policy owner or beneficiary an independent cause of action  
 14 against an indemnity reinsurer that is not otherwise established in the indemnity  
 15 reinsurance agreement.

16 (y) When the association has arranged or offered to provide the benefits of this  
 17 chapter to a covered person under a plan or arrangement that fulfills the association's  
 18 obligations under this chapter, the covered person is not entitled to benefits from the  
 19 association in addition to or other than those provided under the plan or arrangement.

20 (z) In carrying out its duties in connection with guaranteeing, assuming, or  
 21 reinsuring a policy or contract, the association may, subject to approval of the  
 22 receivership court, issue substitute coverage for a policy or contract that provides an  
 23 interest rate, crediting rate, or similar factor determined by use of an index or other  
 24 external reference stated in the policy or contract employed in calculating returns or  
 25 changes in value by issuing an alternative policy or contract under the following  
 26 provisions:

27 (1) in place of the index or other external reference provided for in the  
 28 original policy or contract, the alternative policy or contract provides for

29 (A) a fixed interest rate;

30 (B) payment of dividends with minimum guarantees; or

31 (C) a different method for calculating interest or changes in

1 value;

2 (2) there is no requirement for evidence of insurability, waiting period,  
3 or other exclusion that would not have applied under the replaced policy or contract;  
4 and

5 (3) the alternative policy or contract is substantially similar to the  
6 replaced policy or contract in all other material terms.

7 \* **Sec. 25.** AS 21.79.070(b) is amended to read:

8 (b) There shall be two assessments as follows:

9 (1) class A assessments shall be **authorized and called** [MADE] for  
10 the purpose of meeting administrative and legal costs and other expenses and  
11 examinations conducted under the authority of AS 21.79.060; class A assessments may  
12 be **authorized and called** [MADE] whether or not related to a particular impaired or  
13 insolvent insurer;

14 (2) class B assessments [ARE POST ASSESSMENT CHARGES AND]  
15 shall be **authorized and called** [MADE] only as necessary to carry out the powers and  
16 duties of the association with regard to an impaired or an insolvent insurer.

17 \* **Sec. 26.** AS 21.79.070(c) is amended to read:

18 (c) The amount of a class A assessment shall be determined by the board and  
19 may be made on a pro rata or **non pro** [NONPRO] rata basis. If a pro rata assessment  
20 is made, the board may provide that it be credited against future class B assessments.  
21 A **non pro** [NONPRO] rata assessment may not exceed \$250 per member insurer in  
22 a calendar year. The amount of a class B assessment shall be allocated for assessment  
23 purposes among the accounts under an allocation formula that may be based on the  
24 premiums or reserves of the impaired or insolvent insurer or by another standard  
25 determined by the board **in its sole discretion** as being fair and reasonable under the  
26 circumstances.

27 \* **Sec. 27.** AS 21.79.070(d) is amended to read:

28 (d) Class B assessments shall be based on the premiums received on business  
29 in this state by each assessed member insurer **on** [OR FOR] policies or contracts  
30 covered by each account in proportion to the premiums received on business in this  
31 state by all assessed member insurers during the three calendar years preceding the

1 year in which the insolvency or impairment occurred.

2 \* **Sec. 28.** AS 21.79.070(e) is amended to read:

3 (e) The association may abate or defer, in whole or in part, the assessment of  
 4 a member insurer if, **in the opinion of the board,** a payment of the assessment would  
 5 endanger the ability of the member insurer to fulfill its contractual obligations. The  
 6 amount by which an assessment against a member insurer is abated or deferred may  
 7 be assessed against the other member insurers in a manner consistent with the basis  
 8 for assessments set forth in (c) of this section. **Once the conditions that caused a**  
 9 **deferral are removed or rectified, the member insurer shall pay all assessments**  
 10 **that were deferred under a repayment plan approved by the association.**

11 \* **Sec. 29.** AS 21.79.070(f) is amended to read:

12 (f) **Except as provided in this subsection, the** [THE] total of all assessments  
 13 on a member insurer for **each subaccount of** the life and annuity account and for **the**  
 14 **health account** [EACH SUBACCOUNT] may not in any one calendar year exceed  
 15 two percent **of the insurer's average annual premiums received in this state on**  
 16 **policies or contracts covered by the account or subaccount during the three**  
 17 **calendar years preceding the year in which the insurer became an impaired or**  
 18 **insolvent insurer. If two or more assessments are authorized in one calendar year**  
 19 **with respect to insurers that become impaired or insolvent in different calendar**  
 20 **years, the average annual premiums for purposes of the aggregate assessment**  
 21 **percentage limitation imposed under this subsection shall be limited to the highest**  
 22 **of the average annual premiums during the preceding three calendar years for the**  
 23 **applicable subaccount or account as calculated under this section.** [THE TOTAL  
 24 OF ALL ASSESSMENTS ON A MEMBER INSURER FOR THE HEALTH  
 25 ACCOUNT MAY NOT IN ANY ONE CALENDAR YEAR EXCEED TWO  
 26 PERCENT OF THE INSURER'S AVERAGE PREMIUMS RECEIVED IN THIS  
 27 STATE ON A POLICY OR CONTRACT COVERED BY THE ACCOUNT DURING  
 28 THE THREE CALENDAR YEARS PRECEDING THE YEAR IN WHICH THE  
 29 INSURER BECAME AN IMPAIRED OR INSOLVENT INSURER.] If the maximum  
 30 assessment, together with the other assets of the association in an account, does not  
 31 provide in any one year in either account an amount sufficient to carry out the

responsibilities of the association, the necessary additional funds shall be assessed as soon as permitted by this chapter.

\* **Sec. 30.** AS 21.79.070(h) is amended to read:

(h) If the maximum [A ONE PERCENT] assessment for a subaccount of the life and annuity account in any one year does not provide an amount sufficient to carry out the responsibilities of the association, the board shall, as provided under (d) of this section, access [ASSESS] all subaccounts of the life and annuity account for the necessary additional amount, subject to the assessment limit provided in (f) of this section.

\* **Sec. 31.** AS 21.79.070 is amended by adding new subsections to read:

(i) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer may not be authorized or called until necessary to implement the purposes of this chapter. Classification of assessments under (b) of this section and computation of assessments under this section shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within 180 days after the assessment is authorized.

(j) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from assignment, subrogation, net realized gains, and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses claims.

(k) A member insurer may, in determining its premium rates and policy owner dividends as to any kind of insurance within the scope of this chapter, consider the amount reasonably necessary to meet its assessment obligations under this chapter.

(l) A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment as set out in the notice provided by

the association. The payment shall be available to meet association obligations during the pendency of the protest or any subsequent appeal. If a payment is made under protest, payment must be accompanied by a statement in writing that the payment is made under protest and setting out a brief statement of the grounds for the protest. Within 60 days following the payment of an assessment under protest by a member insurer, the association shall notify the member insurer in writing of its determination with respect to the protest unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest. Within 30 days after a final decision has been made, the association shall notify the protesting member insurer in writing of that final decision. Within 60 days of receipt of notice of the final decision, the protesting member insurer may appeal that final action to the director. In the alternative to rendering a final decision with respect to a protest based on a question regarding the assessment base, the association may refer protests to the director for a final decision with or without recommendation from the association. If a protest or appeal on an assessment is upheld, the amount paid in error or excess shall be returned to the member company. Interest on a refund due a protesting member shall be paid at the rate actually earned by the association.

\* **Sec. 32.** AS 21.79.080(a) is amended to read:

(a) The association shall submit to the director a plan of operation and any amendments to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments take effect on the written approval of the plan by the director **or 30 days after receipt by the director if not disapproved by the director.**

\* **Sec. 33.** AS 21.79.080(b) is amended to read:

(b) **If** [NOTWITHSTANDING (a) OF THIS SECTION, IF THE ASSOCIATION FAILS TO SUBMIT A PLAN OF OPERATION ACCEPTABLE TO THE DIRECTOR BY JULY 1, 1991, OR IF AT A LATER TIME] the association fails to submit suitable amendments to the plan, the director shall, after notice and hearing, adopt regulations to implement this chapter. These regulations remain in effect until amended or repealed by the director [OR SUPERSEDED BY A PLAN SUBMITTED BY THE ASSOCIATION THAT IS APPROVED BY THE

1 DIRECTOR].

2 \* **Sec. 34.** AS 21.79.080(c) is amended to read:

3 (c) A member insurer shall comply with the plan of operation. The plan of  
4 operation must

5 (1) establish procedures for handling assets of the association;

6 (2) establish the amount and method of reimbursing members of the  
7 board under AS 21.79.050(c);

8 (3) establish regular places and times for meetings of the board in the  
9 state; **the board may conduct meetings telephonically;**

10 (4) establish procedures for keeping records of all financial transactions  
11 of the association, its agents, and the board;

12 (5) establish terms of office for members of the board, and establish  
13 procedures for the selection of the members of the board and for the director's approval  
14 of the members selected;

15 (6) establish additional procedures for assessments under AS 21.79.070;  
16 and

17 (7) contain additional provisions necessary or proper for the association  
18 to exercise its powers and duties.

19 \* **Sec. 35.** AS 21.79.100(f) is amended to read:

20 (f) The board **may** [SHALL]

21 (1) make reports and recommendations to the director relating to the  
22 solvency, liquidation, rehabilitation, or conservation of a member insurer or the  
23 solvency of insurers who apply to transact insurance business in the state; the director  
24 and the board shall keep the reports and recommendations confidential;

25 (2) notify the director of any information that indicates that a member  
26 insurer may be impaired or insolvent.

27 \* **Sec. 36.** AS 21.79.110(b) is amended to read:

28 (b) The association shall keep records of [NEGOTIATIONS AND] meetings  
29 relating to its activities. Records of [NEGOTIATIONS OR] meetings may only be  
30 made public under AS 21.79.040(b)

31 (1) after the termination of a liquidation, rehabilitation, or conservation

1 proceeding that involves the impaired or insolvent insurer;

2 (2) after the insurer is no longer impaired or insolvent; or

3 (3) upon the order of a court of competent jurisdiction.

4 \* **Sec. 37.** AS 21.79.110(c) is amended to read:

5 (c) The association is considered to be a creditor of the impaired or insolvent  
 6 insurer to the extent of assets attributable to covered policies that are reduced by an  
 7 amount to which the association is entitled under AS 21.79.060(s). Assets of the  
 8 impaired or insolvent insurer that are attributable to covered policies shall be used to  
 9 continue all covered policies and pay all contractual obligations of the impaired or  
 10 insolvent insurer as required by this chapter. Assets attributable to covered policies  
 11 include those assets that should have been established as reserves for the covered  
 12 policies. These assets are determined by multiplying the total assets of the impaired  
 13 or insolvent insurer by a fraction, the numerator of which is the amount that should  
 14 have been established as reserves for the covered policies of the impaired or insolvent  
 15 insurer, and the denominator of which is the amount that should have been established  
 16 as reserves for all policies of insurance issued in all states by that insurer. As a  
 17 creditor of the impaired or insolvent insurer, the association and other similar  
 18 entities in other states are entitled to receive a disbursement of assets out of the  
 19 marshaled assets as a credit against contractual obligations under this chapter  
 20 from time to time as the assets become available. If the liquidator has not, within  
 21 120 days of the date of a final determination of insolvency of an insurer by the  
 22 court, made an application to the court for the approval of a proposal to disburse  
 23 assets, the association may make application to the court for the approval of the  
 24 association's proposal to disburse assets.

25 \* **Sec. 38.** AS 21.79.110 is amended by adding new subsections to read:

26 (f) A deposit in this state, held by law or required by the director for the  
 27 benefit of creditors, including policy owners, not turned over to the domiciliary  
 28 liquidator upon the entry of a final order of liquidation or order approving a  
 29 rehabilitation plan of an insurer domiciled in this state or in a reciprocal state shall  
 30 be promptly paid to the association. The association

31 (1) is entitled to retain a portion of any amount paid to it equal to the



percentage determined by dividing the aggregate amount of policy owners' claims related to that insolvency for which the association has provided statutory benefits by the aggregate amount of all policy owners' claims in this state related to that insolvency; and

(2) shall remit to the domiciliary receiver the amount paid to the association and retained under (1) of this subsection; any amount paid to the association not retained by it under (1) of this subsection shall be treated as a distribution of state assets under AS 21.78.294 or a similar provision of the state of domicile of the impaired or insolvent insurer.

(g) The association may not be required to give an appeal bond in an appeal of a civil action arising under this chapter.

\* **Sec. 39.** AS 21.79.120 is amended to read:

**Sec. 21.79.120. Examination of the association, annual report.** The association may be examined by the director. The board shall submit to the director, not later than July [MAY] 1 of each year, a certified financial report for the preceding calendar year in a form approved by the director and a report of its activities during the preceding calendar year. Nothing in AS 21.79.110(b) limits the duty of the association to report under this section. Upon request, the association shall provide a copy of the report to a member insurer.

\* **Sec. 40.** AS 21.79.140 is amended to read:

**Sec. 21.79.140. Civil immunity.** The association and its agents and employees, members of the Board of Governors, member insurers, and agents and employees of member insurers, and the director and the director's representatives are not civilly liable for an action or omission in performing [TAKEN BY THEM TO PERFORM] duties under this chapter. In this section, "duties" includes participation in an organization of one or more state associations of life or health insurers.

\* **Sec. 41.** AS 21.79.150 is repealed and reenacted to read:

**Sec. 21.79.150. Stay of proceedings; default judgment.** Proceedings involving an insolvent insurer shall be stayed at least 60 days after the date of a final order of liquidation, rehabilitation, or conservation in order to allow the association to

1 exercise a power or duty authorized under this chapter. If a default judgment is  
 2 entered against an insolvent insurer, the association may apply to have the judgment  
 3 set aside or may defend against the action on its merits.

4 \* **Sec. 42.** AS 21.79 is amended by adding new sections to read:

5 **Sec. 21.79.160. Prohibited advertisement of insurance sales; required**  
 6 **notice.** (a) A person, including an insurer, agent, or affiliate of an insurer, may not  
 7 make, publish, disseminate, circulate, or place before the public, or cause, directly or  
 8 indirectly, to be made, published, disseminated, circulated, or placed before the public,  
 9 in any newspaper, magazine, or other publication, or in the form of a notice, circular,  
 10 pamphlet, letter, or poster, or over any radio station or television station, or in any  
 11 other way, an advertisement, announcement, or statement, written or oral, that uses the  
 12 existence of the association for the purpose of sales, solicitation, or inducement to  
 13 purchase any form of insurance covered by the association. However, this section does  
 14 not apply to the association or any other entity that does not sell or solicit insurance.

15 (b) The association shall prepare a summary document describing the general  
 16 purposes and current limitations of this chapter and complying with (c) of this section.  
 17 This document shall be submitted to the director for approval. Beginning 60 days after  
 18 the date on which the director approves the document, an insurer may not deliver a  
 19 policy or contract to a policy or contract owner unless the summary document is  
 20 delivered to the policy or contract owner at the time of delivery of the policy or  
 21 contract. The document shall also be available upon request by a policy owner. The  
 22 distribution, delivery, contents, or interpretation of this document does not guarantee  
 23 that either the policy or the contract, or the owner of the policy or contract, is covered  
 24 in the event of the impairment or insolvency of a member insurer. The description  
 25 document shall be revised by the association as amendments to this chapter may  
 26 require. Failure to receive this document does not give the policy owner, contract  
 27 owner, certificate holder, or insured any greater rights than those stated in this chapter.

28 (c) The document prepared under (b) of this section must contain a clear and  
 29 conspicuous disclaimer on its face. The director shall establish the form and content  
 30 of the disclaimer. The disclaimer must

31 (1) state the name and address of the association and the division of

1 insurance;

2 (2) prominently warn the policy or contract owner that the association  
3 may not cover the policy or, if coverage is available, that the policy will be subject to  
4 substantial limitations and exclusions and conditioned on continued residence in this  
5 state;

6 (3) state the types of policies for which guaranty funds will provide  
7 coverage;

8 (4) state that the insurer and its agents are prohibited by law from using  
9 the existence of the association for the purpose of sales, solicitation, or inducement to  
10 purchase any form of insurance;

11 (5) state that the policy or contract owner should not rely on coverage  
12 under the association when selecting and insurer;

13 (6) explain rights available and procedures for filing a complaint to  
14 allege a violation of a provision of this chapter; and

15 (7) provide other information as required by the director, including  
16 sources for information about the financial condition of insurers if the information is  
17 not proprietary and is subject by law to disclosure.

18 (d) A member insurer shall retain evidence of compliance with (b) of this  
19 section for so long as the policy or contract for which the notice is given remains in  
20 effect.

21 **Sec. 21.79.170. Determination of principal place of business.** The principal  
22 place of business of a plan sponsor consisting of

23 (1) a single employer or an employee organization is that state in which  
24 the plan sponsor exercises the direction, control, and coordination of the operations of  
25 the entity, as determined by the association in its reasonable judgment by considering  
26 the following factors: (A) the state in which the primary executive and administrative  
27 headquarters of the entity are located; (B) the state in which the principal office of the  
28 chief executive officer of the entity is located; (C) the state in which the board of  
29 directors or a similar governing body of the entity conducts the majority of its  
30 meetings; (D) the state in which the executive or management committee of the board  
31 of directors or a similar governing body of the entity conducts the majority of its

meetings; (E) the state from which the management of the overall operations of the entity is directed; and (F) in the case of a benefit plan sponsored by affiliated companies making up a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the factors described in (A) - (E) of this paragraph; however, if more than 50 percent of the participants in the benefit plan are employed in a single state, that state is considered to be the principal place of business of a plan sponsor that is a single employer or an employee organization;

(2) two or more employers or employee organizations is that state in which the employers or employee organizations have the largest investment in the benefit plan.

**Sec. 21.79.180. Determination of residency of certain individuals.** A citizen of the United States that is either a (1) resident of a foreign country, or (2) resident of a United States possession, territory, or protectorate that does not have an association similar to the association created by this chapter is, for purposes of this chapter, a resident of the state of domicile of the insurer that issued the policy or contract.

\* **Sec. 43.** AS 21.79.900(6) is amended to read:

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

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

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

(C) a mandatory state pooling plan;

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

(E) an insurance exchange licensed under AS 21.75; [OR]

(F) a [NONPROFIT] hospital or medical service organization licensed under AS 21.87;

**(G) an organization that has a license or certificate limited to the issuance of charitable gift annuities; or**

**(H) an entity similar to one described under (A) - (G) of this paragraph;**

\* **Sec. 44.** AS 21.79.900(9) is amended to read:

(9) "resident" means a person **to whom a contractual obligation is owed under this chapter and** who resides in this state **on the date of entry of a court order that determines a member insurer to be an impaired or insolvent insurer, whichever occurs first** [AT THE TIME A MEMBER INSURER IS DETERMINED TO BE AN IMPAIRED OR INSOLVENT INSURER AND TO WHICH A CONTRACTUAL OBLIGATION IS OWED]; a person may be a resident of only one state, which, in the case of a person other than a natural person, shall be the principal place of business;

\* **Sec. 45.** AS 21.79.900 is amended by adding new paragraphs to read:

(12) "authorized assessment" means an assessment approved by a resolution by the board that will be called immediately or in the future from member insurers for a specified amount;

(13) "called" means that a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within the time set out in the notice;

(14) "impaired insurer" means a member insurer that is not an insolvent insurer and that is placed under an order of rehabilitation or conservation by a court of competent jurisdiction;

(15) "insolvent insurer" means a member insurer that is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency;

(16) "owner," in relation to a policy or contract,

(A) means the person who is identified as the legal owner under the terms of the policy or contract, or who is otherwise vested with legal title to the policy or contract through a valid assignment completed under the terms of the policy or contract and who is properly recorded as the owner on the

1 records of the insurer;

2 (B) does not include a person with a mere beneficial interest in  
3 a policy or contract;

4 (17) "plan sponsor" means, in the case of a benefit plan established or  
5 maintained by

6 (A) a single employer, the employer;

7 (B) an employee organization, the employee organization; or

8 (C) two or more employers or jointly by one or more employers  
9 and one or more employee organizations, the association, committee, joint  
10 board of trustees, or other group of representatives of the parties who establish  
11 or maintain the benefit plan;

12 (18) "receivership court" means the court in the insolvent or impaired  
13 insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation  
14 of the insurer;

15 (19) "structured settlement annuity" means an annuity purchased in  
16 order to fund periodic payments for a plaintiff or other claimant in payment for or with  
17 respect to personal injury suffered by the plaintiff or other claimant;

18 (20) "state" means a state of the United States, the District of  
19 Columbia, Puerto Rico, or a United States possession, territory, or protectorate.

20 \* **Sec. 46.** AS 21.36.035, AS 21.79.060(b), 21.79.100(g), and 21.79.100(i) are repealed.

21 \* **Sec. 47.** The uncoded law of the State of Alaska is amended by adding a new section  
22 to read:

23 **TRANSITIONAL PROVISIONS.** The terms of the members of the board of governors  
24 of the Alaska Life and Health Insurance Guaranty Association who are serving on the  
25 effective date of this Act are not affected by this Act. Their terms expire as provided before  
26 the enactment of this Act.