

**SENATE CS FOR CS FOR HOUSE BILL NO. 184(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/7/01

Referred: Rules

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to insurance; amending Rule 402, Alaska Rules of Evidence; and**  
2   **providing for an effective date."**

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

4       **\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
5   to read:

6           PURPOSE. The primary purpose of secs. 10 - 74, 80 - 83, 85, 86, 88 - 90, and 92 of  
7   this Act is to implement insurance reforms in AS 21 as required by P.L. 106-102 (Gramm-  
8   Leach-Bliley Act) to modernize financial services related to the business of insurance and to  
9   further this state as an attractive place for investment and other commerce involving the  
10   insurance industry.

11       **\* Sec. 2.** AS 21.12 is amended by adding a new section to read:

12           **Sec. 21.12.130. Commercial insurance defined.** Commercial insurance is  
13   any line of property insurance, as defined in AS 21.12.060, or casualty insurance, as  
14   defined in AS 21.12.070, that is for business and professional interests, whether for

profit, nonprofit, or public in nature. For purposes of filing rates under AS 21.39.040 and forms under AS 21.42.120, commercial insurance does not include workers' compensation insurance.

\* **Sec. 3.** AS 21.18 is amended by adding a new section to read:

**Sec. 21.18.170. Valuation of investments.** For the purposes of this chapter, the value or amount of an investment acquired, held, or invested in or an investment practice engaged in under this title, unless otherwise specified in this title, must be the value at which assets of an insurer are required to be reported for accounting purposes under this title and as required under procedures prescribed in published accounting and valuation standards of the National Association of Insurance Commissioners, including the purposes and procedures manual of the securities valuation office, the valuation of securities manual, the accounting practices and procedures manual, and the annual statement instructions or valuation procedures officially adopted by the National Association of Insurance Commissioners.

\* **Sec. 4.** AS 21.21.010 is repealed and reenacted to read:

**Sec. 21.21.010. Scope.** This chapter applies only to an investment and investment practice of a domestic insurer and a United States branch of an alien insurer entered through this state. This chapter does not apply to separate accounts of a life insurer.

\* **Sec. 5.** AS 21.21.020(d) is amended to read:

(d) An investment limitation based upon the amount of the insurer's assets or particular funds shall relate to the assets or funds shown by the insurer's annual statement **most recently required to be** [AS OF THE PRECEDING DECEMBER 31, DATE OF ACQUISITION OF THE INVESTMENT BY THE INSURER, OR SHOWN BY A CURRENT FINANCIAL STATEMENT] filed with the director.

\* **Sec. 6.** AS 21.21.020 is amended by adding a new subsection to read:

(e) For purposes of determining compliance with investment limitations imposed under this chapter, the director or an insurer shall use admitted asset values.

\* **Sec. 7.** AS 21.21.255 is amended to read:

**Sec. 21.21.255. Regulation of securities held by insurers.** As provided under 15 U.S.C. 77r-1(b) and (c) (Secondary Mortgage Market Enhancement Act of

1 1984), securities that are purchased, held, or invested in by an insurer **are subject to**  
 2 **AS 21.18.170 and regulations adopted under AS 21.21.420** [SHALL BE  
 3 REGULATED UNDER AS 21.18.150, AS 21.21.050, 21.21.260, 21.21.270], and  
 4 other applicable provisions of this title.

5 \* **Sec. 8.** AS 21.21 is amended by adding a new section to read:

6 **Sec. 21.21.420. Regulations.** The director shall adopt regulations regarding  
 7 insurance company investments that are consistent with the defined limits standards  
 8 for investments of the National Association of Insurance Commissioners.

9 \* **Sec. 9.** AS 21.24.030(a) is amended to read:

10 (a) All deposits required under AS 21.09.090 for authority to transact  
 11 insurance in this state shall consist of certificates of deposit [,] or any combination of  
 12 **rated credit instruments of the United States, Canada, or a state of the United**  
 13 **States** [SECURITIES OF THE KINDS DESCRIBED IN AS 21.21.060, 21.21.080,  
 14 AND 21.21.090].

15 \* **Sec. 10.** AS 21.27.010(e) is repealed and reenacted to read:

16 (e) An employee of an insurer who responds to requests from existing  
 17 policyholders on existing policies is not required to be licensed under this section if  
 18 the employee

19 (1) is not directly compensated based on volume of premiums that may  
 20 result from those services; and

21 (2) does not transact insurance.

22 \* **Sec. 11.** AS 21.27.010(j) is amended to read

23 (j) This section does not apply to a person who

24 (1) is employed on salary or hourly wage by a person licensed under  
 25 this section solely for the performance of accounting, clerical, stenographic, and  
 26 similar office duties;

27 (2) only secures and forwards information required for the purposes of,  
 28 **and does not receive a commission for, any of the following services:**

29 **(A) performing administrative services related to**

30 **(i) group life insurance;**

31 **(ii) group property and casualty insurance;**

1 (iii) group annuities;

2 (iv) group or blanket accident and health insurance;

3 (B) enrolling individuals under plans for the types of  
4 insurance or annuities specified in (A) of this paragraph;

5 (C) issuing certificates under plans for the types of  
6 insurance or annuities specified in (A) of this paragraph, or otherwise  
7 assisting in administering those plans;

8 (D) performing administrative services related to mass-  
9 marketed property and casualty insurance [COVERING THE UNPAID  
10 BALANCE, OR REMAINING PAYMENTS PROPOSED TO BE MADE, IN  
11 CONNECTION WITH THE PURCHASE OF MERCHANDISE OR  
12 SERVICES, IF THE PERSON RECEIVES NO COMPENSATION,  
13 DIRECTLY OR INDIRECTLY, ARISING OUT OF OR IN ANY WAY  
14 RELATING TO THE INSURANCE TRANSACTIONS]; [OR]

15 (3) is employed on salary by a licensee at the licensee's place of  
16 business, is supervised by and reports directly to a licensee in the firm, and who, after  
17 explaining that the matter must be reviewed by a licensee, may

18 (A) furnish premium estimates from published or printed lists  
19 of standard rates if the person does not advise, counsel, or suggest what  
20 coverage may be needed, or otherwise solicit insurance coverage;

21 (B) arrange appointments for a licensee if the person does not  
22 solicit insurance coverage;

23 (C) record information from an applicant or policyholder and  
24 complete for the licensee's personal review and signature, a certificate of  
25 insurance that is not a contract of insurance; the licensee's signature may be by  
26 facsimile;

27 (D) inform a policyholder of the type of coverage shown in the  
28 licensee's policy record if the person does not advise that an event or  
29 hypothetical event is or is not covered; or

30 (E) in the physical presence of the licensee, record information  
31 from an applicant or policyholder and complete for a licensee's personal

review and personal signature, applications, binders, endorsements, or identification cards if the person discloses to the applicant or policyholder that the applicant or policyholder may review the matter with a licensee;

(4) is an employee of an insurer or an organization employed by an insurer and is engaged in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers and is not individually engaged in the sale, solicitation, or negotiation of insurance;

(5) advertises in this state through printed publications or electronic mass media, the distribution of which is not limited to residents of this state, if the person

(A) performs no other insurance-related activities in this state;

(B) does not intend to solicit in this state; and

(C) does not sell, solicit, or negotiate insurance of risks resident, located, or to be performed in this state;

(6) is not a resident of this state, but sells, solicits, or negotiates commercial property and casualty insurance for an insured with risks located in more than one state if the person is licensed as an insurance producer in the state where the insured maintains its principal place of business and the contract of insurance covers risks located in that state;

(7) is a salaried full-time employee who counsels or advises the person's employer regarding the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, if the employee does not sell or solicit insurance or receive a commission from the sale or solicitation of insurance;

(8) is an employer or association or the employer's or association's officer, director, employee, or the trustee of an employee trust plan, if the person is not compensated, directly or indirectly, for transacting insurance and is engaged in the administration or operation of a plan offering employee benefits for the employer's or association's own employees, or the employees of its subsidiaries or affiliates; to qualify under this paragraph, the plan must include

insurance for employees; or

(9) is an officer, director, or employee of an admitted insurer who does not receive a commission on policies written or sold to risks resident, located, or to be performed in this state if the officer's, director's, or employee's functions are executive, administrative, managerial, clerical, or a combination of these and are only indirectly related to the transaction of insurance; relates to underwriting or loss control; or are in the capacity of an agency supervisor where the activities are limited to providing technical assistance to insurance producers and whose activities do not include transacting insurance.

\* **Sec. 12.** AS 21.27.020(b) is amended to read:

(b) To qualify for issuance or renewal of an individual or individual in the firm license, an applicant or licensee shall comply with this title and [,] regulations adopted under AS 21.06.090 [,] and

(1) shall be 18 [19] years of age or older [WITH A HIGH SCHOOL OR GENERAL EDUCATION DEVELOPMENT DIPLOMA OR EQUIVALENT];

(2) if for a resident license, shall be a bona fide resident before issuance of the license and actually reside in the state;

(3) shall successfully pass an examination required under AS 21.27.060;

(4) shall be a trustworthy person;

(5) may not use or intend to use the license for the purpose principally of writing controlled business, as defined in AS 21.27.030;

(6) may not have committed an act that is a cause for denial, nonrenewal, suspension, or revocation of a license in this state or another jurisdiction.

\* **Sec. 13.** AS 21.27.020(c) is repealed and reenacted to read:

(c) To qualify for issuance or renewal of a license as a firm insurance producer, a firm managing general agent, a firm reinsurance intermediary broker, a firm reinsurance intermediary manager, a firm surplus lines broker, or a firm independent adjuster, an applicant or licensee shall

(1) comply with (b)(4) and (5) of this section;

(2) maintain a lawfully established place of business in this state,

except when licensed as a nonresident under AS 21.27.270;

(3) disclose to the director all owners, officers, directors, or partners of the firm;

(4) designate a compliance officer for the firm;

(5) provide to the director documents necessary to verify the information contained in or made in connection with the application; and

(6) notify the director, in writing, within 30 days of a change in the firm's compliance officer or of the termination of employment of an individual in the firm licensee.

\* **Sec. 14.** AS 21.27.020(f) is amended to read:

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

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

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

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

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

(5) a nonresident licensee is exempt from the requirements of this subsection [IF THE LICENSEE SUBMITS EVIDENCE SATISFACTORY TO THE DIRECTOR THAT THE LICENSEE HAS SATISFIED ANY CONTINUING

EDUCATION REQUIREMENTS OF THE LICENSEE'S DOMICILIARY STATE].

\* **Sec. 15.** 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 licensee shall report in writing to the director any administrative action taken against the licensee by a governmental agency of another state or by a governmental agency of another jurisdiction within 30 days after the final disposition of the action. A licensee shall submit to the director the final order and other relevant legal documents in the action. A licensee shall report to the director any criminal prosecution of the licensee in this or another state or jurisdiction within 30 days after the date of filing of the criminal complaint, indictment, information, or citation in the prosecution. The licensee shall submit to the director a copy of the criminal complaint, calendaring order, and other relevant legal documents in the prosecution [; A SUSPENSION, REVOCATION, OR DISCIPLINARY ACTION OF A LICENSE BY ANOTHER STATE OR JURISDICTION; OR A CONVICTION OF A MISDEMEANOR OR FELONY].

\* **Sec. 16.** AS 21.27.025(b) is amended to read:

(b) A compliance officer [PRINCIPAL OR MANAGER] shall notify the director in writing within 30 days of a termination of employment of a licensed individual in the firm. Notice required under this subsection must include

(1) the licensee's name;

(2) the firm's name and address;

(3) the date of hire, self-employment, or termination of the licensee;

and

(4) other information required by the director.

\* **Sec. 17.** AS 21.27.040(a) is amended to read:

(a) Application for a license shall be made to the director upon forms prescribed by the director. As a part of or in connection with the application, the applicant shall furnish information concerning the applicant's identity, personal



history, experience, business record, purposes, and other pertinent facts that the director may reasonably require. The applicant shall declare, [UNDER OATH AND] subject to penalty of denial, nonrenewal, suspension, or revocation of a license issued by the director that the statements made in or in connection with the application are true, correct, and complete to the best of the applicant's knowledge and belief. Payment of an application fee established under AS 21.06.250 must be submitted with the application.

\* **Sec. 18.** AS 21.27.040 is amended by adding a new subsection to read:

(e) As part of the application required by (a) of this section, an applicant shall furnish to the director a full set of fingerprints so that the director may obtain criminal justice information as provided under AS 12.62 about the applicant. The director shall submit the completed fingerprint card to the Department of Public Safety. The Department of Public Safety is authorized to submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

\* **Sec. 19.** AS 21.27.060(a) is amended to read:

(a) Except as provided in this chapter, an applicant for an individual license and a **compliance officer** [PRINCIPAL OR MANAGER] applicant for a firm license shall, before the issuance of the license, personally take and pass, to the satisfaction of the director, an examination that tests the knowledge and competence of the applicant as to the applicant's duties and responsibilities as a licensee and the insurance **statutes** [LAWS] and regulations of the state.

\* **Sec. 20.** AS 21.27.060(c) is repealed and reenacted to read:

(c) An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in that individual's prior home state is not required to pass the examination required by (a) of this section in order to secure the same authority in this state. The exemption available under this subsection applies only if the application is received within 90 days after the cancellation of the applicant's previous license in the applicant's prior home state and

(1) the applicant's prior home state verifies that, at the time of cancellation, the applicant held an insurance producer license that was in good standing in that state; or

(2) the insurance producer licensing database records for the prior home state that are maintained by the National Association of Insurance Commissioners or its affiliates or subsidiaries indicate that the applicant is or was licensed in good standing for the kind of license requested.

\* **Sec. 21.** 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(a)(1), (5), or (6) [AS 21.27.150(a)(1), (2), (6), OR (7)]; **or**

(2) who, at any time within the one-year [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 RESIDENT JURISDICTION REQUIRES THE SAME QUALIFICATIONS AS THE LICENSE APPLIED FOR IN THIS STATE IF THE LICENSE IN ALL JURISDICTIONS IS IN GOOD STANDING].

\* **Sec. 22.** AS 21.27.100 is amended by adding new subsections to read:

(f) An insurer may appoint an insurance producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment under this subsection.

(g) The authorized or apparently authorized acts on behalf of an appointing insurer of an insurance producer appointed under this section are considered the acts of that insurer.

\* **Sec. 23.** AS 21.27.110 is repealed and reenacted to read:

**Sec. 21.27.110. Term of appointment.** (a) An appointment under AS 21.27.100 continues in force until the appointment is terminated in accordance with this section.

(b) If an appointment is terminated by an insurer, reinsurer, or authorized representative, the insurer, reinsurer, or authorized representative shall, on a form or in a format prescribed by the director, notify the director within 30 days after the date of termination of the appointment.

1 (c) If an appointment is terminated by the director, a written or an electronic  
2 notice of termination shall be given to the appointee, to the person that made the  
3 appointment, and, if different from the person making the appointment, to the insurer  
4 or reinsurer, at least 10 days before the effective date of the termination. The director  
5 shall send notification under this subsection to the latest address on record with the  
6 director.

7 (d) If, after termination and notice under (b) of this section, an insurer,  
8 reinsurer, or authorized representative discovers additional information showing that  
9 the appointee whose appointment was terminated has engaged in an activity identified  
10 in AS 21.27.410 during the period of the appointment, the insurer, reinsurer, or  
11 authorized representative shall, on a form or in a format prescribed by the director,  
12 promptly notify the director.

13 (e) Within 15 days after providing notification in accordance with (b) and (d)  
14 of this section, the insurer, reinsurer, or authorized representative shall mail a copy of  
15 the notification to the appointee at the last address on record with the director. The  
16 notice must be provided by certified mail, return receipt requested, postage prepaid, or  
17 by overnight delivery using a nationally recognized mail carrier, if the appointment  
18 was terminated for an activity identified in AS 21.27.410.

19 (f) Within 30 days after the appointee receives notification in accordance with  
20 (c) of this section, the appointee may file written comments concerning the substance  
21 of the notification with the director and must provide a copy of the written comments  
22 to the insurer, reinsurer, or authorized representative. The written comments filed  
23 with the director must be included with each report distributed or disclosed concerning  
24 a reason about the termination of the appointment.

25 (g) If requested by the director, an insurer, reinsurer, or authorized  
26 representative shall provide to the director additional information, documents, records,  
27 or other data pertaining to a termination or activity of a licensee under this title.

28 (h) A notice of termination submitted to the director under this section must  
29 include a statement of the reasons for the termination. A statement of the reasons for  
30 termination is confidential and not subject to inspection and copying under  
31 AS 40.25.110. A statement of reasons for the termination may not be admitted as

1 evidence in a civil action or an administrative proceeding against an insurer, reinsurer,  
 2 or authorized representative by or on behalf of a person affected by the termination,  
 3 except when the action or proceeding involves perjury, unsworn falsification, fraud, or  
 4 failure to comply with this subsection.

5 (i) If an insurer, reinsurer, or authorized representative fails to report as  
 6 required under this section or is found by a court to have knowingly or intentionally  
 7 falsely made that report, the director may, after notice and hearing, suspend or revoke  
 8 the license or certificate of authority of the insurer, reinsurer, or authorized  
 9 representative and may impose a penalty in accordance with AS 21.27.440.

10 (j) The director may require that an insurer renew an appointment annually  
 11 and may require payment of a renewal fee under AS 21.06.250 for an appointment in  
 12 effect on December 31 of the current year. If the director requires that an appointment  
 13 be renewed or a renewal fee be paid, the director shall terminate the appointment if the  
 14 renewal fees have not been received by the director on or before the close of business  
 15 on March 1 of the renewal year.

16 \* **Sec. 24.** AS 21.27 is amended by adding a new section to read:

17 **Sec. 21.27.115. Lines of authority.** If a person has met the applicable  
 18 requirements of AS 21.27.020 and 21.27.270, the director shall issue a license for one  
 19 or more of the following lines of authority:

20 (1) life insurance coverage on natural persons; in this paragraph, "life  
 21 insurance coverage"

22 (A) includes benefits of endowment and annuities; and

23 (B) may include benefits in the event of death or  
 24 dismemberment by accident and benefits for disability income;

25 (2) health insurance coverage for sickness, bodily injury, or accidental  
 26 death; in this paragraph, "health insurance coverage" may include benefits for  
 27 disability income;

28 (3) property insurance coverage for the direct or consequential loss for  
 29 damage to property of every kind;

30 (4) casualty insurance coverage against legal liability, including that  
 31 for death, injury, or disability or damage to real or personal property; in this

paragraph, "casualty insurance" includes surety insurance as defined in AS 21.12.080;

- (5) variable life and variable annuity products insurance coverage;
- (6) personal lines property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;
- (7) limited lines credit insurance;
- (8) any insurance for which a limited lines license may be issued under AS 21.27.150.

\* **Sec. 25.** AS 21.27.130 is amended to read:

**Sec. 21.27.130. Form and content of licenses.** A license must be in the form the director prescribes and must set out

- (1) the name and address of the licensee [,] and, if the licensee is required to have a place of business, the physical address of the place of business;
- (2) [IF FOR A FIRM, THE NAME OF THE PRINCIPAL OR MANAGER OF THE FIRM;
- (3)] the type, [KIND OR] class, and lines of authority [OF INSURANCE] the licensee is licensed to handle;
- (3) [(4)] the effective date and expiration date of the license;
- (4) each condition, if any, [(5) THE CONDITION] under which the license is granted;
- (5) [(6)] the date of issuance of the license;
- (6) [(7)] each fictitious name and alias under which the licensee may do business; and
- (7) [(8)] other information required by the director.

\* **Sec. 26.** AS 21.27.130 is amended by adding a new subsection to read:

(b) A license issued by the director does not in itself create any authority, actual, apparent, or inherent, in the holder of the license to represent or commit an insurer.

\* **Sec. 27.** AS 21.27.140(b) is amended to read:

(b) A firm may not be licensed as an insurance producer, managing general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker, or independent adjuster, or transact insurance unless each individual

employed as an insurance producer, managing general agent, surplus lines broker, trainee insurance producer, trainee independent adjuster, or independent adjuster by the firm is licensed as an individual in the firm and the **compliance officer** [PRINCIPAL OR MANAGER] of the firm is licensed as an individual in the firm to exercise all the powers conferred by the firm's license.

\* **Sec. 28.** AS 21.27.140(c) is amended to read:

(c) If the director determines under AS 21.06.170 - 21.06.240 that a firm knew or should have known of an act or representation made on the firm's behalf by a person not licensed as required by this chapter, the firm and the firm's **compliance officer** [PRINCIPAL OR MANAGER] are subject to the penalties provided under AS 21.27.440.

\* **Sec. 29.** AS 21.27.150(a) is amended to read:

(a) The director may issue a

(1) travel insurance limited producer license to a person [WHOSE PLACE OF BUSINESS IS LOCATED IN THIS STATE,] who sells transportation tickets of a common carrier of persons or property, who is appointed under AS 21.27.100, and whose sole purpose is to be appointed by and act as an agent for transportation ticket policies of health insurance, baggage insurance on personal effects, and trip cancellation or trip interruption insurance;

(2) [HEALTH INSURANCE LIMITED PRODUCER LICENSE TO A RESIDENT OF THIS STATE WHOSE SOLE PURPOSE IS TO BE APPOINTED BY AND ACT AS AN AGENT FOR HEALTH INSURANCE PERTAINING TO SPORTS AND RECREATION;

(3)] title insurance limited producer license to a person whose place of business is located in this state and whose sole purpose is to be appointed by and act on behalf of a title insurer;

**(3)** [(4)] bail bond limited producer license to a person [WHOSE PLACE OF BUSINESS IS LOCATED IN THIS STATE AND] whose sole purpose is to be appointed by and act on behalf of a surety insurer pertaining to bail bonds;

**(4)** [(5)] fraternal benefit society limited producer license to a person whose sole purpose is to be appointed by and act on behalf of a fraternal benefit

1 society licensed under AS 21.84;

2 (5) [(6) RETIRED INSURANCE PRODUCER LICENSE TO A  
3 RESIDENT WHO IS RETIRED OR RETIRING FROM THE BUSINESS OF  
4 INSURANCE AND SURRENDERS ALL IN-FORCE LICENSES TO ALLOW THE  
5 PERSON TO RECEIVE A CONTINUING COMMISSION IN REGARD TO  
6 INSURANCE TRANSACTED BEFORE RETIREMENT; A RETIRED  
7 INSURANCE PRODUCER LICENSEE MAY NOT SOLICIT, INDUCE,  
8 NEGOTIATE, OR EFFECTUATE CONTRACTS OF INSURANCE; THE  
9 DIRECTOR MAY RENEW A RETIRED INSURANCE PRODUCER LICENSE IF  
10 THE LICENSEE CEASES TO BE A RESIDENT OF THIS STATE;

11 (7)] motor vehicle rental agency limited producer license to a person  
12 and, subject to the approval of the director, to employees of the person licensed that  
13 the licensee authorizes to transact the business of insurance on the licensee's behalf if,  
14 as to an employee, the licensee complies with (D) of this paragraph and if the licensee

15 (A) rents to others, without operators,

16 (i) private passenger motor vehicles, including  
17 passenger vans, minivans, and sport utility vehicles; or

18 (ii) cargo motor vehicles, including cargo vans, pickup  
19 trucks, and trucks with a gross vehicle weight of less than 26,000  
20 pounds that do not require the operator to possess a commercial driver's  
21 license;

22 (B) rents motor vehicles only to persons under rental  
23 agreements that do not exceed a term of 90 days;

24 (C) transacts only the following kinds of insurance:

25 (i) motor vehicle liability insurance with respect to  
26 liability arising out of the use of a vehicle rented from the licensee  
27 during the term of the rental agreement;

28 (ii) uninsured or underinsured motorist coverage, with  
29 minimum limits described in AS 21.89.020(c) and (d) arising out of the  
30 use of a vehicle rented from the licensee during the term of the rental  
31 agreement;

(iii) insurance against medical, hospital, surgical, and disability benefits to an injured person and funeral and death benefits to dependents, beneficiaries, or personal representatives of a deceased person if the insurance is issued as incidental coverage with or supplemental to liability insurance and arises out of the use of a vehicle rented from the licensee during the term of the rental agreement;

(iv) personal effects insurance, including loss of use, with respect to damage to or loss of personal property of a person renting the vehicle and other vehicle occupants while that property is being loaded into, transported by, or unloaded from a vehicle rented from the licensee during the term of the rental agreement;

(v) towing and roadside assistance with respect to vehicles rented from the licensee during the term of the rental agreement; and

(vi) other insurance as may be authorized by regulation by the director;

(D) notifies the director in writing, within 30 days of employment, of the name, date of birth, social security number, location of employment, and home address of an employee authorized by the licensee to transact insurance on the licensee's behalf; and

(E) provides other information as required by the director;

**(6) nonresident limited producer license to a person; a license that the director issues under this paragraph grants the same scope of authority as a limited lines producer license issued to the person by the person's home state;**

**(7) credit insurance limited producer license to a person who sells limited lines credit insurance;**

**(8) miscellaneous limited producer license to a person who transacts insurance in this state that restricts the person's authority to less than the total authority for a line of authority described in AS 21.27.115(1) - (6).**

\* Sec. 30. AS 21.27.270 is repealed and reenacted to read:

**Sec. 21.27.270. Licensing of nonresidents.** (a) In accordance with P.L. 106-



102 (Gramm-Leach-Bliley Act), the director shall issue a license to a nonresident license applicant on terms that are reciprocal with those of the applicant's home state. Notwithstanding any contrary provision of this chapter, the director may by order waive any license application requirement in this chapter to achieve reciprocity to license a nonresident in accordance with P.L. 106-102 (Gramm-Leach-Bliley Act).

(b) Unless the director denies or refuses to renew a license under AS 21.27.410, the director shall issue a nonresident producer, limited lines, surplus lines broker, managing general agent, reinsurance intermediary broker, or reinsurance intermediary manager license to a person who is not a resident of this state if

(1) the person is currently licensed and is in good standing in the person's home state; the director may verify the person's licensing status through the producer licensing database records maintained by the National Association of Insurance Commissioners or its affiliates or subsidiaries;

(2) the person has paid the fees required under AS 21.06.250 and has submitted to the director

(A) the license application the person submitted to the person's home state; or

(B) if the person is not a firm, a completed uniform application or, if a firm, the uniform business entity application; and

(3) the person's home state awards nonresident producer, limited lines, surplus lines, managing general agent, reinsurance intermediary broker, and reinsurance intermediary manager licenses to residents of this state on the same basis as does this state.

(c) Notwithstanding (b) of this section, the director may require a person applying for a

(1) nonresident license to furnish the person's fingerprints as required of a person applying for a license under AS 21.27.040(e);

(2) surplus lines broker license under this section to have, and maintain while licensed in this state, the bond required of a person applying for a license under AS 21.27.790(2); and

(3) nonresident license to comply with the premium fiduciary account

1 requirements of AS 21.27.360 and the regulations adopted under that statute.

2 (d) A person licensed as a limited lines producer in the person's home state  
3 shall receive a nonresident limited lines producer license granting the same scope of  
4 authority as the license issued by the producer's home state.

5 (e) In addition to the other requirements of this chapter, a person may not be  
6 licensed as a nonresident licensee until the person files a power of attorney as follows:

7 (1) an applicant shall appoint the director as attorney to receive service  
8 of legal process issued against the licensee in this state upon a cause of action arising  
9 in this state or relative to a subject resident, located, or to be performed in this state;  
10 service upon the director as attorney shall constitute effective legal service upon the  
11 licensee; and

12 (2) the appointment shall be irrevocable for as long as there could be a  
13 cause of action against the licensee arising out of an insurance transaction in this state  
14 or relative to a subject resident, located, or to be performed in this state.

15 (f) Duplicate copies of legal process against a licensed or formerly licensed  
16 nonresident licensee shall be served upon the director either by a peace officer or  
17 through certified mail with return receipt requested. At the time of service, the  
18 plaintiff shall pay to the director a fee set under AS 21.06.250.

19 (g) Upon receiving a service of process, the director shall immediately send  
20 one of the copies of the process by certified mail, return receipt requested, to the  
21 licensed or formerly licensed nonresident licensee at the last address of record filed  
22 with the director.

23 \* **Sec. 31.** AS 21.27 is amended by adding a new section to read:

24 **Sec. 21.27.275. Alien licensees.** The director may issue a license authorized  
25 by this chapter to a nonresident of this state who does not have a home state if that  
26 person meets all the requirements of this chapter for that license applicable to a  
27 resident of this state applying for the same license.

28 \* **Sec. 32.** AS 21.27.330 is repealed and reenacted to read:

29 **Sec. 21.27.330. Place of business.** (a) A person licensed under this chapter  
30 shall have and maintain at least one place of business that is physically accessible to  
31 the public in this state unless the person holds a nonresident license and principally

1 conducts transactions in another state. However, the nonresident licensee must have at  
 2 least one physically accessible place in the nonresident licensee's home state. The  
 3 requirements of this subsection do not apply to a licensee who only conducts business  
 4 in life or health insurance or annuities.

5 (b) If a licensee that is a firm transacts business at more than one place of  
 6 business in this state, the licensee shall pay a license fee for each place of business.

7 \* **Sec. 33.** AS 21.27.350(c) is amended to read:

8 (c) The records of a particular transaction shall be retained and kept open for  
 9 examination and inspection by the director at any business time during the five years  
 10 immediately after the date of the completion of the transaction or 10 years for  
 11 reinsurance transactions, unless the director orders a longer period of retention. If a  
 12 licensee assumes the business of another licensee or former licensee by merger,  
 13 purchase, or otherwise, the compliance officer [PRINCIPAL OR MANAGER] of the  
 14 assuming licensee firm shall provide to the director in writing each location where the  
 15 assumed licensee's records are maintained by the assuming licensee during the period  
 16 in which the records must be kept available and open to the inspection of the director.  
 17 A formerly licensed person shall provide to the director in writing each location where  
 18 records shall be maintained during the period in which the records of a particular  
 19 transaction must be kept available and open to the examination and inspection of the  
 20 director. A formerly licensed person may, with the permission of the director, arrange  
 21 to have a current licensee or the home office of the last known insurer of each  
 22 policyholder [,] maintain the records open to the examination and inspection of the  
 23 director during the period in which the records must be maintained.

24 \* **Sec. 34.** AS 21.27.360(b) is amended to read:

25 (b) All money, except that made payable to the insurer, representing premium  
 26 taxes and fees, premiums, or return premiums received by the licensee [,] shall be  
 27 received by the licensee as a [IN THE] fiduciary [ACCOUNT OF THE LICENSEE]  
 28 and shall be promptly accounted for and paid to the person entitled to the money.  
 29 [THE FIDUCIARY ACCOUNT SHALL BE LOCATED IN THIS STATE UNLESS  
 30 THE LICENSEE IS LICENSED AS A NONRESIDENT UNDER AS 21.27.270.  
 31 FOR PURPOSES OF THIS SECTION, THE FIDUCIARY ACCOUNT OF THE

1 FIRM SHALL BE CONSIDERED THE FIDUCIARY ACCOUNT OF AN  
 2 INDIVIDUAL LICENSEE ACTING ON BEHALF OF THE FIRM AND SHALL BE  
 3 THE RESPONSIBILITY OF THE FIRM]. Money held by the licensee as a  
 4 fiduciary [DEPOSITED INTO A FIDUCIARY ACCOUNT] may not be commingled  
 5 or otherwise combined with other money not held by the licensee as a fiduciary [,  
 6 EXCEPT AS ALLOWED UNDER (d) OF THIS SECTION AND AS 21.27.365].

7 \* **Sec. 35.** AS 21.27.360(c) is amended to read:

8 (c) In addition to any other penalty provided by law, a person who the director  
 9 has determined has acted to divert or appropriate money held as a fiduciary  
 10 [ACCOUNT MONEY] for personal use shall be ordered to make restitution and shall  
 11 be subject to suspension or revocation under AS 21.27.420 - 21.27.430 of all licenses  
 12 and a civil penalty not to exceed \$50,000 for each violation.

13 \* **Sec. 36.** AS 21.27.360(d) is amended to read:

14 (d) A licensee may only commingle premium taxes and fees, premiums, and  
 15 return premiums with additional money for the purpose of advancing premiums,  
 16 establishing reserves for the payment of return premiums, or reserves for receiving and  
 17 transmitting premium or return premium money [. MONEY COLLECTED FOR THE  
 18 PAYMENT OF PREMIUM TAXES, POLICY OR FILING FEES, LATE PAYMENT  
 19 CHARGES, AND INTEREST FROM FIDUCIARY MONEY ON DEPOSIT, MAY  
 20 BE COMMINGLED IN A FIDUCIARY ACCOUNT, BUT SHALL BE  
 21 SEPARATELY ACCOUNTED FOR AND PERIODICALLY REMOVED FROM  
 22 THE FIDUCIARY ACCOUNT].

23 \* **Sec. 37.** AS 21.27.360(e) is amended to read:

24 (e) Money held by a licensee as a fiduciary may not be treated [A  
 25 LICENSEE MAY NOT TREAT MONEY REQUIRED TO BE IN A FIDUCIARY  
 26 ACCOUNT] as a personal asset, as collateral for a personal or business loan, or as a  
 27 personal asset or income on a financial statement, except that money held by the  
 28 licensee as a [IN A] fiduciary [ACCOUNT] may be included in a financial statement  
 29 of the licensee if clearly identified as assets held by the licensee as a fiduciary  
 30 [ACCOUNT ASSETS AND LIABILITIES].

31 \* **Sec. 38.** AS 21.27.360(f) is amended to read:

(f) This section does not apply to an individual in the firm who acts solely on behalf of a firm that maintains compliance with this section [AND DEPOSITS ALL MONEY INTO THE FIRM'S FIDUCIARY ACCOUNT].

\* **Sec. 39.** AS 21.27.360 is amended by adding a new subsection to read:

(h) The director of insurance may adopt regulations to implement, define, and enforce this section.

\* **Sec. 40.** AS 21.27.370 is repealed and reenacted to read:

**Sec. 21.27.370. Sharing compensation.** (a) Except as provided in (c) and (d) of this section, a licensee may not compensate a person, other than a licensee who is acting within the scope of the person's license, for transacting insurance in this state or relative to a risk resident, located, or to be performed in this state.

(b) Except as provided in (c) and (d) of this section, a person may not be promised or paid, directly or indirectly, compensation for transacting a kind or class of insurance for which the person is not then licensed to transact or for insurance that the person is prohibited by this title from transacting.

(c) An unlicensed person who refers a customer or potential customer to a licensee and who does not discuss specific terms and conditions of a policy, or who gives opinions or advice regarding insurance, may be compensated for the referral, if the compensation

(1) for each referral is

(A) nominal;

(B) on a one-time basis; and

(C) fixed in amount by referral;

(2) does not depend on whether the customer or potential customer purchases the insurance; and

(3) is not contingent on the volume of insurance transacted.

(d) An insurer or insurance producer may compensate an insurance agency or another person if that person does not transact the business of insurance in this state and the payment does not violate AS 21.36.100 or 21.36.120.

(e) A person who is no longer licensed in this state may be paid renewal or other deferred compensation for selling, soliciting, or negotiating insurance in this

1 state if the person

2 (1) was required to be licensed under this chapter at the time of the  
3 sale, solicitation, or negotiation; and

4 (2) held that required license.

5 (f) In addition to any other penalty provided by law, the director may suspend  
6 or revoke the license of a licensee participating in a violation of this section. The  
7 director may order a licensee who violates this section to pay a penalty of not more  
8 than three times the compensation promised or paid.

9 \* **Sec. 41.** AS 21.27.390(a) is amended to read:

10 (a) The director may issue a temporary license only to a person who, except  
11 for experience, training, or the taking of an examination, meets all qualifications for a  
12 permanent license and if the person is

13 (1) the surviving spouse, next of kin, or the administrator or executor  
14 of a deceased licensed insurance producer or managing general agent;

15 (2) the spouse, next of kin, employee, or legal guardian of a licensed  
16 insurance producer or managing general agent who is disabled from transacting  
17 insurance because of sickness, mental illness [INSANITY], or injury;

18 (3) a surviving member, officer, or employee of a firm licensed as  
19 insurance producer or managing general agent upon the death of the compliance  
20 officer [PRINCIPAL OR MANAGER] of the firm holding the same licenses as the  
21 firm; or

22 (4) the designee of a licensed insurance producer who enters active  
23 service in the armed forces of the United States, but only for insurance relating to  
24 insurers for whom the licensee was acting as an agent.

25 \* **Sec. 42.** AS 21.27.410(b) is amended to read:

26 (b) The license of a firm and its compliance officer [PRINCIPAL OR  
27 MANAGER] may be denied, nonrenewed, suspended, or revoked for a violation or  
28 cause that relates to a person representing or acting on behalf of the firm.

29 \* **Sec. 43.** AS 21.27.460(c) is amended to read:

30 (c) Upon a change in the state of residence, a place of business, a mailing  
31 address, or in the compliance officer [PRINCIPAL OR MANAGER] of a firm, a

license subject to the change shall be surrendered to the director within 10 days either personally or by certified mail and the division shall reissue the license reflecting the changes if the licensee continues to satisfy the qualifications under this chapter.

\* **Sec. 44.** AS 21.27.540(g) is amended to read:

(g) In addition to any other penalty provided by law, if the director determines under AS 21.06.170 - 21.06.240 that the employing licensed insurance producer knew of or should have known that a trainee insurance producer violated this section, the employing licensed insurance producer and firm, and the compliance officer [PRINCIPAL AND MANAGER], if any, are subject to the penalties provided under AS 21.27.440.

\* **Sec. 45.** AS 21.27.550(c) is amended to read:

(c) All money collected for the account of an insurer shall be held by the insurance producer as [IN] a fiduciary [ACCOUNT AS DESCRIBED UNDER AS 21.27.360, AND THE INSURANCE PRODUCER SHALL COMPLY WITH ALL APPLICABLE FIDUCIARY ACCOUNT STATUTES AND REGULATIONS].

\* **Sec. 46.** AS 21.27.550(i) is amended to read:

(i) A reinsurance intermediary manager may not enter into an agency agreement with an insurance producer unless both parties are licensed under this chapter and there is in effect a written agency agreement that specifically sets out the duties, functions, powers, authority, and compensation of all parties to the agreement. The written agreement shall be kept in the permanent records of the reinsurance intermediary manager, the reinsurer, and the insurance producer, and be open to inspection by the director. A written agreement must contain the following minimum provisions:

(1) money collected for the account of a reinsurer must be held by the insurance producer as [IN] a fiduciary [ACCOUNT AS DESCRIBED UNDER AS 21.27.360; THE INSURANCE PRODUCER SHALL COMPLY WITH ALL APPLICABLE FIDUCIARY ACCOUNT STATUTES AND REGULATIONS];

(2) the agreement may not be assigned in whole or in part by the insurance producer;

(3) the agreement may not permit the insurance producer to settle

1 claims on behalf of the reinsurer or reinsurance intermediary manager; and

2 (4) the insurance producer may not

3 (A) jointly employ an individual who is employed with the  
4 reinsurer or reinsurance intermediary manager; or

5 (B) delegate insurance producer authority to another person.

6 \* **Sec. 47.** AS 21.27.560(a) is amended to read:

7 (a) A client who appoints an insurance producer as its broker in this state or  
8 relative to a subject resident, located, or to be performed in this state shall execute a  
9 written contract that specifically sets out the duties, functions, powers, authority, and  
10 compensation of the insurance producer, if the broker is compensated by a fee paid by  
11 the client or by a combination of a fee paid by a client and a commission paid by an  
12 insurer with which coverage has been placed. The written contract shall be kept in the  
13 permanent records of the insurance producer and be open to inspection by the director.

14 \* **Sec. 48.** AS 21.27.560(g) is amended to read:

15 (g) Money paid by a client to an insurance producer for insurance premiums  
16 shall be held by the insurance producer as [IN] a fiduciary [ACCOUNT AS  
17 DESCRIBED UNDER AS 21.27.360, AND THE INSURANCE PRODUCER  
18 SHALL COMPLY WITH APPLICABLE FIDUCIARY ACCOUNT STATUTES  
19 AND REGULATIONS].

20 \* **Sec. 49.** AS 21.27.570(a) is amended to read:

21 (a) If the aggregate amount of gross written premium on business placed by a  
22 controlling insurance producer exceeds five percent of the admitted assets of the  
23 controlled insurer for a calendar year as reported in the insurer's most recent financial  
24 statement filed with the director, the controlling insurance producer may not place  
25 business with the controlled insurer and the controlled insurer may not accept business  
26 from the controlling insurance producer unless a written contract is in effect between  
27 the parties that

28 (1) establishes the responsibilities of each party, indicates each party's  
29 share of responsibility for each particular function, and specifies the division of  
30 responsibilities;

31 (2) has been approved by the board of directors of the controlled



insurer;

(3) contains the following minimum provisions:

(A) the controlled insurer may terminate the contract for cause upon written notice sent by certified mail to the controlling producer and shall suspend the authority of the controlling insurance producer to write business during a dispute regarding the cause for termination;

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

(C) the controlling insurance producer shall remit money due under the contract to the controlled insurer at least monthly;

(D) premiums or installments collected shall be due not later than 90 days after the effective date of coverage placed with the controlled insurer;

(E) money collected for the account of a controlled insurer shall be held by the controlling insurance producer **as** [IN] a fiduciary [ACCOUNT AS DESCRIBED UNDER AS 21.27.360], except a controlling insurance producer not required to be licensed under this chapter shall **act as a** [MAINTAIN ITS] fiduciary [ACCOUNT] in compliance with the requirements of its domiciliary jurisdiction;

(F) [A LICENSED CONTROLLING INSURANCE PRODUCER SHALL COMPLY WITH ALL APPLICABLE FIDUCIARY ACCOUNT STATUTES AND REGULATIONS;

(G) A FIDUCIARY ACCOUNT MUST BE USED FOR] all payments on behalf of the controlled insurer **shall be held by the controlling insurance producer as a fiduciary;**

**(G)** [(H)] the controlling insurance producer shall maintain separate records for each controlled insurer in a form usable by the controlled insurer; the controlled insurer or its authorized representative shall have the right to audit and the right to copy all accounts and records related to the

1 controlled insurer's business; the director, in addition to authority granted in  
 2 this title, shall have access to all books, bank accounts, and records of the  
 3 controlling insurance producer in a form usable to the director;

4 (H) [(I)] the contract may not be assigned in whole or in part  
 5 by the controlling insurance producer;

6 (I) [(J)] the controlled insurer shall provide, and the controlling  
 7 producer shall follow, written underwriting standards, rules, procedures, and  
 8 manuals that must include the conditions for acceptance or rejection of risks,  
 9 including types of risks that may be written, maximum limits of liability,  
 10 applicable exclusions, territorial limitations, policy cancellation provisions, the  
 11 maximum policy term, the rating system, and basis of the rates to be charged;

12 (J) [(K)] the underwriting standards, rules, procedures, and  
 13 manuals shall be the same as those applicable to comparable business placed  
 14 with the controlled insurer by licensees other than the controlling licensee;

15 (K) [(L)] the rates and terms of the controlling insurance  
 16 producer's compensation including commissions, charges, and other fees may  
 17 not be greater than those applicable to comparable business placed with the  
 18 controlled insurer by licensees other than the controlling licensee;

19 (L) [(M)] the controlled insurer shall establish a limit, that may  
 20 be different for each kind or class of business, on the amount of premium that  
 21 the controlling insurance producer may place with the controlled insurer in  
 22 relation to the controlled insurer's surplus and total writings;

23 (M) [(N)] the controlled insurer shall notify the controlling  
 24 insurance producer if an applicable limit is approached and the controlling  
 25 insurance producer may not place and the controlled insurer may not accept  
 26 business if the limit under (L) [(M)] of this paragraph has been reached;

27 (N) [(O)] if the contract provides that the controlling insurance  
 28 producer, on insurance placed with the controlled insurer, is to be compensated  
 29 contingent upon the controlling insurer's profits on the placed insurance, the  
 30 contingent compensation may not be determined or paid until

31 (i) at least five years after the premiums are earned on

casualty business and at least one year after the premiums are earned on any other insurance;

(ii) a later period established by the director for specified kinds or classes of insurance; and

(iii) not until the profits have been verified under (b) of this section;

**(O)** [(P)] the controlling insurance producer may negotiate but may not bind reinsurance on behalf of the controlled insurer on insurance that the controlling insurance producer places with the controlled insurer, except that the controlling insurance producer may bind facultative reinsurance contracts under obligatory agreements if the contract with the controlled insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which automatic agreements are in effect, the coverage and amounts or percentages that may be reinsured, and commission schedules; and

(4) provides that the controlled insurer has an audit committee composed of independent members of the board of directors that meet at least annually with management, the insurer's independent certified public accountants, and an independent actuary specialist acceptable to the director to review the adequacy of the insurer's reserves for losses incurred and outstanding.

\* **Sec. 50.** AS 21.27.600(g) is amended to read:

(g) In addition to any other penalty provided by law

(1) the director shall revoke the trainee license of a trainee managing general agent who the director determines has violated the provisions of this section; a licensee or other person having possession or custody of the license shall immediately surrender the license to the director either personally or by certified mail;

(2) if the director determines under AS 21.06.170 - 21.06.240 that the employing managing general agent knew of or should have known that a trainee managing general agent violated this section, the employing managing general agent and firm, **and the compliance officer** [PRINCIPAL, AND MANAGER], if any, are subject to the penalties provided under AS 21.27.440.

1     \* **Sec. 51.** AS 21.27.620(a) is amended to read:

2             (a) An insurer may not transact business with a managing general agent unless

3                     (1) the insurer holds a certificate of authority in this state;

4                     (2) the managing general agent is licensed under this chapter or, when  
5     the managing general agent is operating only for a foreign insurer, is licensed by its  
6     resident insurance regulator in a state that the director has determined has enacted  
7     provisions substantially similar to those contained in this chapter and the state is  
8     accredited by the National Association of Insurance Commissioners;

9                     (3) a written contract is in effect between the parties that establishes  
10    the responsibilities of each party, indicates both party's share of responsibility for a  
11    particular function, and specifies the division of responsibilities;

12                    (4) a written contract between an insurer and a managing general agent  
13    contains the following provisions:

14                         (A) the insurer may terminate the contract for cause upon  
15    written notice sent by certified mail to the managing general agent and may  
16    suspend the underwriting authority of the managing general agent during a  
17    dispute regarding the cause for termination;

18                         (B) the managing general agent shall render accounts to the  
19    insurer detailing all transactions and remit all money due under the contract to  
20    the insurer at least monthly;

21                         (C) all money collected for the account of an insurer shall be  
22    held by the managing general agent as [IN] a fiduciary [ACCOUNT AS  
23    DESCRIBED UNDER AS 21.27.360];

24                         (D) [THE MANAGING GENERAL AGENT SHALL  
25    COMPLY WITH ALL APPLICABLE FIDUCIARY ACCOUNT STATUTES  
26    AND REGULATIONS;

27                         (E) A FIDUCIARY ACCOUNT SHALL BE USED FOR] all  
28    payments on behalf of the insurer shall be held by the managing general  
29    agent as a fiduciary;

30                         (E) [(F)] the managing general agent may not retain more than  
31    three months estimated claims payments and allocated loss adjustment

1 expenses;

2 (F) [(G)] the managing general agent shall maintain separate  
 3 records for each insurer in a form usable by the insurer; the insurer or its  
 4 authorized representative shall have the right to audit and the right to copy all  
 5 accounts and records related to the insurer's business; the director, in addition  
 6 to authority granted in this title, shall have access to all books, bank accounts,  
 7 and records of the managing general agent in a form usable to the director;

8 (G) [(H)] the contract may not be assigned in whole or in part  
 9 by the managing general agent;

10 (H) [(I)] if the contract permits the managing general agent to  
 11 do underwriting, the contract must include the following:

12 (i) the managing general agent's maximum annual  
 13 premium volume;

14 (ii) the rating system and basis of the rates to be  
 15 charged;

16 (iii) the types of risks that may be written;

17 (iv) maximum limits of liability;

18 (v) applicable exclusions;

19 (vi) territorial limitations;

20 (vii) policy cancellation provisions;

21 (viii) the maximum policy term; and

22 (ix) that the insurer shall have the right to cancel or not  
 23 renew a policy of insurance subject to applicable state law;

24 (I) [(J)] if the contract permits the managing general agent to  
 25 settle claims on behalf of the insurer, the contract must include the following:

26 (i) written settlement authority must be provided by the  
 27 insurer and may be terminated for cause upon the insurer's written  
 28 notice sent by certified mail to the managing general agent or upon the  
 29 termination of the contract, but the insurer may suspend the settlement  
 30 authority during a dispute regarding the cause of termination;

31 (ii) claims shall be reported to the insurer within 30

1 days;

2 (iii) a copy of the claim file shall be sent to the insurer  
3 upon request or as soon as it becomes known that the claim has the  
4 potential to exceed an amount determined by the director or exceeds the  
5 limit set by the insurer, whichever is less, involves a coverage dispute,  
6 may exceed the managing general agent's claims settlement authority,  
7 is open for more than six months, involves extra contractual  
8 allegations, or is closed by payment in excess of an amount set by the  
9 director or an amount set by the insurer, whichever is less;

10 (iv) each party shall comply with unfair claims  
11 settlement statutes and regulations;

12 (v) transmission of electronic data at least monthly if  
13 electronic claim files are in existence; and

14 (vi) claim files shall be the property of both the insurer  
15 and managing general agent; upon an order of liquidation of the  
16 insurer, the files shall become the sole property of the insurer or the  
17 insurer's estate; the managing general agent shall have reasonable  
18 access to and the right to copy the files on a timely basis;

19 **(J)** [(K)] if the contract provides for sharing of interim profits  
20 by the managing general agent and the managing general agent has the  
21 authority to determine the amount of the interim profits by establishing loss  
22 reserves, by controlling claim payments, or in any other manner, interim  
23 profits may not be paid to the managing general agent until

24 (i) one year after they are earned for property insurance  
25 business and five years after they are earned on casualty business;

26 (ii) a later period established by the director for  
27 specified kinds or classes of insurance; and

28 (iii) not until the profits have been verified under (d) of  
29 this section;

30 **(K)** [(L)] if the insurer is domiciled in this state or the  
31 managing general agent has a place of business in this state, a copy of the

contract must be filed with and approved by the director at least 30 days before the managing general agent transacts business on behalf of the insurer; if the insurer is not domiciled in this state or the managing general agent transacts business relative to a subject resident, located, or to be performed in this state from a place of business not physically located in this state, a copy of the contract required in this section must be filed with and approved by the director at least 30 days before the managing general agent transacts business on behalf of the insurer in this state or relative to a subject resident, located, or to be performed in this state if the insurer or the managing general agent are domiciled in a state not accredited by the National Association of Insurance Commissioners; and

(L) [(M)] if the contract is not required to be approved in advance by the director, the insurer shall provide written notification to the director within 30 days of the entry into or termination of a contract with a managing general agent; the notice must include a statement of duties to be performed by the managing general agent on behalf of the insurer, the kinds and classes of insurance for which the managing general agent has authorization to act, and other information required by the director.

\* **Sec. 52.** AS 21.27.620 is amended by adding a new subsection to read:

(l) In this section, "transact" has the meaning given in AS 21.90.900.

\* **Sec. 53.** AS 21.27.640(b) is repealed and reenacted to read:

(b) To qualify for issuance or renewal of a registration, an applicant or registrant shall comply with this title, regulations adopted under AS 21.06.090, and

(1) be a trustworthy person;

(2) have active working experience in administrative functions that, in the director's opinion, exhibits the ability to competently perform the administrative functions of a third-party administrator;

(3) not have committed an act that is a cause for denial, nonrenewal, suspension, or revocation of a registration or license in this state or another jurisdiction;

(4) maintain a lawfully established place of business as described in

1 AS 21.27.330 in this state, unless licensed as a nonresident under AS 21.27.270;

2 (5) disclose to the director all owners, officers, directors, or partners, if  
3 any;

4 (6) designate a compliance officer for the firm;

5 (7) provide in or with its application

6 (A) all basic organizational documents of the third-party  
7 administrator, including articles of incorporation, articles of association,  
8 partnership agreement, trade name certificate, trust agreement, shareholder  
9 agreement, and other applicable documents and all endorsements to the  
10 required documents;

11 (B) the bylaws, rules, regulations, or similar documents  
12 regulating the internal affairs of the administrator;

13 (C) the names, mailing addresses, physical addresses, official  
14 positions, and professional qualifications of persons who are responsible for  
15 the conduct of affairs of the third-party administrator, including the members  
16 of the board of directors, board of trustees, executive committee, or other  
17 governing board or committee; the principal officers in the case of a  
18 corporation, or the partners or members in the case of a partnership, limited  
19 liability company, limited liability partnership, or association; shareholders  
20 holding directly or indirectly 10 percent or more of the voting securities of the  
21 third-party administrator; and any other person who exercises control or  
22 influence over the affairs of the third-party administrator;

23 (D) certified financial statements for the preceding two years,  
24 or for each year and partial year that the applicant has been in business if less  
25 than two years, prepared by an independent certified public accountant  
26 establishing that the applicant is solvent, that the applicant's system of  
27 accounting, internal control, and procedure is operating effectively to provide  
28 reasonable assurance that money is promptly accounted for and paid to the  
29 person entitled to the money, and any other information that the director may  
30 require to review the current financial condition of the applicant; and

31 (E) a statement describing the business plan, including



1 information on staffing levels and activities proposed in this state and in other  
 2 jurisdictions and providing details establishing the third-party administrator's  
 3 capability for providing a sufficient number of experienced and qualified  
 4 personnel in the areas of claims handling, underwriting, and record keeping;

5 (8) provide to the director documents necessary to verify the  
 6 statements contained in or in connection with the application; and

7 (9) notify the director, in writing, within 30 days of

8 (A) a change in compliance officer, residence, place of  
 9 business, mailing address, or phone number;

10 (B) the suspension or revocation of an insurance license or  
 11 registration by another state or jurisdiction; or

12 (C) a conviction of a misdemeanor or felony of the third-party  
 13 administrator, its officers, directors, partners, owners, or employees.

14 \* **Sec. 54.** AS 21.27.650(a) is amended to read:

15 (a) An insurer may not transact business with a third-party administrator  
 16 unless

17 (1) the insurer holds a certificate of authority in this state;

18 (2) the third-party administrator is registered under this chapter or,  
 19 when the third-party administrator is operating only for a foreign insurer, is registered  
 20 as a third-party administrator by the third-party administrator's resident insurance  
 21 regulator in a state that the director has determined has enacted provisions  
 22 substantially similar to those contained in AS 21.27.630 - 21.27.650 and that is  
 23 accredited by the National Association of Insurance Commissioners;

24 (3) the third-party administrator provides the director on January 1,  
 25 April 1, July 1, and October 1 of each year

26 (A) a list of current employees, identifying those transacting  
 27 business in this state or upon a subject resident, located or to be performed in  
 28 this state;

29 (B) a list of current insurers under contract; and

30 (C) other information the director may require;

31 (4) a written contract is in effect between the parties that establishes

1 the responsibilities of each party, indicates both parties' share of responsibility for a  
 2 particular function, and specifies the division of responsibilities;

3 (5) there is in effect a written contract between the insurer and third-  
 4 party administrator that contains the following provisions:

5 (A) the insurer may terminate the contract for cause upon  
 6 written notice sent by certified mail to the third-party administrator and may  
 7 suspend the underwriting authority of the third-party administrator during a  
 8 dispute regarding the cause for termination; but the insurer must fulfill all  
 9 lawful obligations with respect to policies affected by the written agreement,  
 10 regardless of any dispute between the insurer and the third-party administrator;

11 (B) the third-party administrator shall render accounts to the  
 12 insurer detailing all transactions and remit all money due under the contract to  
 13 the insurer at least monthly;

14 (C) all money collected for the account of an insurer shall be  
 15 held by the third-party administrator as [IN] a fiduciary [ACCOUNT AS  
 16 DESCRIBED UNDER AS 21.27.360];

17 [(D) THE THIRD-PARTY ADMINISTRATOR SHALL  
 18 COMPLY WITH ALL APPLICABLE FIDUCIARY ACCOUNT STATUTES  
 19 AND REGULATIONS;

20 (E) A FIDUCIARY ACCOUNT SHALL BE USED FOR] all  
 21 payments on behalf of the insurer shall be held by the third-party  
 22 administrator as a fiduciary;

23 (E) [(F)] the third-party administrator may not retain more than  
 24 three months estimated claims payments and allocated loss adjustment  
 25 expenses;

26 (F) [(G)] the third-party administrator shall maintain separate  
 27 records for each insurer in a form usable by the insurer; the insurer or its  
 28 authorized representative shall have the right to audit and the right to copy all  
 29 accounts and records related to the insurer's business; the director, in addition  
 30 to other authority granted in this title, shall have access to all books, bank  
 31 accounts, and records of the third-party administrator in a form usable to the

1 director; any trade secrets contained in books and records reviewed by the  
 2 director, including the identity and addresses of policyholders and certificate  
 3 holders, shall be kept confidential, except that the director may use the  
 4 information in a proceeding instituted against the third-party administrator or  
 5 the insurer;

6 (G) [(H)] the contract may not be assigned in whole or in part  
 7 by the third-party administrator;

8 (H) [(I)] if the contract permits the third-party administrator to  
 9 do underwriting, the contract must include the following:

10 (i) the third-party administrator's maximum annual  
 11 premium volume;

12 (ii) the rating system and basis of the rates to be  
 13 charged;

14 (iii) the types of risks that may be written;

15 (iv) maximum limits of liability;

16 (v) applicable exclusions;

17 (vi) territorial limitations;

18 (vii) policy cancellation provisions;

19 (viii) the maximum policy term; and

20 (ix) that the insurer shall have the right to cancel or not  
 21 renew a policy of insurance subject to applicable state law;

22 (I) [(J)] if the contract permits the third-party administrator to  
 23 administer claims on behalf of the insurer, the contract must include the  
 24 following:

25 (i) written settlement authority must be provided by the  
 26 insurer and may be terminated for cause upon the insurer's written  
 27 notice sent by certified mail to the third-party administrator or upon the  
 28 termination of the contract, but the insurer may suspend the settlement  
 29 authority during a dispute regarding the cause of termination;

30 (ii) claims shall be reported to the insurer within 30  
 31 days;

(iii) a copy of the claim file shall be sent to the insurer upon request or as soon as it becomes known that the claim has the potential to exceed an amount determined by the director or exceeds the limit set by the insurer, whichever is less, involves a coverage dispute, may exceed the third-party administrator's claims settlement authority, is open for more than six months, involves extra contractual allegations, or is closed by payment in excess of an amount set by the director or an amount set by the insurer, whichever is less;

(iv) each party to the contract shall comply with unfair claims settlement statutes and regulations;

(v) transmission of electronic data must occur at least monthly if electronic claim files are in existence; and

(vi) claim files shall be the sole property of the insurer; upon an order of liquidation of the insurer, the third-party administrator shall have reasonable access to and the right to copy the files on a timely basis; and

**(J)** [(K)] the contract may not provide for commissions, fees, or charges contingent upon savings obtained in the adjustment, settlement, and payment of losses covered by the insurer's obligations; but a third-party administrator may receive performance-based compensation for providing hospital or other auditing services or may receive compensation based on premiums or charges collected or the number of claims paid or processed.

\* **Sec. 55.** AS 21.27.650 is amended by adding a new subsection to read:

(p) In this section, "transact" has the meaning given in AS 21.90.900.

\* **Sec. 56.** AS 21.27.680(g) is amended to read:

(g) In addition to any other penalty provided by law,

(1) the director shall revoke the license of a trainee reinsurance intermediary broker who the director determines has violated the provisions of this section; a licensee or other person having possession or custody of the license shall immediately surrender the license to the director either personally or by certified mail;

(2) if the director determines under AS 21.06.170 - 21.06.240 that the

1        employing reinsurance intermediary broker knew of or should have known that a  
 2        trainee reinsurance intermediary broker violated this section, the employing  
 3        reinsurance intermediary broker and firm **and compliance officer** [, PRINCIPAL  
 4        AND MANAGER], if any, are subject to the penalties provided under AS 21.27.440.

5        \* **Sec. 57.** AS 21.27.690(a) is amended to read:

6                (a) Except as provided in (b) of this section, an insurer may not transact  
 7        business with a reinsurance intermediary broker unless the insurer holds a certificate  
 8        of authority in this state, the reinsurance intermediary broker is licensed in this state,  
 9        and there is in effect a written contract between the parties that establishes the  
 10       responsibilities of each party, indicates each party's share of responsibility for each  
 11       particular function, and specifies the division of responsibilities. The written contract  
 12       shall be kept in the permanent records of the insurer and the reinsurance intermediary  
 13       broker, be open to inspection by the director, and must contain the following minimum  
 14       provisions:

15                (1) the insurer may terminate the reinsurance intermediary broker's  
 16       authority at any time by written notice sent by certified mail;

17                (2) the reinsurance intermediary broker shall render accounts to the  
 18       insurer detailing all transactions including information necessary to support all  
 19       commissions, charges, and other fees received by or owing to the reinsurance  
 20       intermediary broker and remit the money due under the contract to the insurer within  
 21       30 days of receipt;

22                (3) money collected for the account of an insurer shall be held by the  
 23       reinsurance intermediary broker **as** [IN] a fiduciary [ACCOUNT REQUIRED  
 24       UNDER AS 21.27.360; THE REINSURANCE INTERMEDIARY BROKER SHALL  
 25       COMPLY WITH APPLICABLE FIDUCIARY ACCOUNT STATUTES AND  
 26       REGULATIONS];

27                (4) the reinsurance intermediary broker shall maintain separate  
 28       accounts and records for each insurer and maintain the records in a form usable by the  
 29       insurer; the insurer or the authorized representative of the insurer shall have access and  
 30       the right to audit and the right to copy all accounts and records related to the insurer's  
 31       business; the director, in addition to the other authority granted in this title, shall have

1 access to all books, bank accounts, and records of the insurance intermediary broker in  
2 a form usable to the director;

3 (5) the insurer shall establish written standards for the cession or  
4 retrocession of all risks, and the reinsurance intermediary broker shall comply with  
5 those standards;

6 (6) the reinsurance intermediary broker shall disclose to the insurer all  
7 its relationships with insurers and reinsurers to whom risks are ceded or retroceded;  
8 and

9 (7) the contract may not be assigned in whole or in part by the  
10 reinsurance intermediary broker.

11 \* **Sec. 58.** AS 21.27.690 is amended by adding a new subsection to read:

12 (g) In this section, "transact" has the meaning given in AS 21.90.900.

13 \* **Sec. 59.** AS 21.27.760(b) is amended to read:

14 (b) The contract required under (a) of this section must include the following  
15 provisions:

16 (1) the reinsurer may terminate the contract for cause upon written  
17 notice sent by certified mail to the reinsurance intermediary manager and may suspend  
18 the underwriting authority of the reinsurance intermediary manager during a dispute  
19 regarding the cause for termination;

20 (2) the reinsurance intermediary manager shall render accounts to the  
21 reinsurer detailing all transactions including information necessary to support all  
22 commissions, charges, and other fees received by or owing to the reinsurance  
23 intermediary manager and remit all money due under the contract to the insurer at  
24 least monthly;

25 (3) money collected for the account of a reinsurer shall be held by the  
26 reinsurance intermediary manager as [IN] a fiduciary [ACCOUNT AS DESCRIBED  
27 UNDER AS 21.27.360];

28 (4) [THE REINSURANCE INTERMEDIARY MANAGER SHALL  
29 COMPLY WITH APPLICABLE FIDUCIARY ACCOUNT STATUTES AND  
30 REGULATIONS];

31 (5)] the reinsurance intermediary manager shall maintain a separate

1 bank account for each reinsurer that it represents;

2 **(5)** [(6) A FIDUCIARY ACCOUNT MUST BE USED FOR] all  
 3 payments on behalf of the reinsurer **shall be held by the reinsurance intermediary**  
 4 **manager as a fiduciary**;

5 **(6)** [(7)] the reinsurance intermediary manager may retain not more  
 6 than three months estimated claims payments and allocated loss adjustment expenses;

7 **(7)** [(8)] the reinsurance intermediary manager shall maintain separate  
 8 accounts and records for each reinsurer and maintain the records in a form usable by  
 9 the reinsurer; the reinsurer or its authorized representative shall have access and the  
 10 right to audit and the right to copy all accounts and records related to the reinsurer's  
 11 business; the director, in addition to the other authority granted in this title, shall have  
 12 access to all books, bank accounts, and records of the reinsurance intermediary  
 13 manager in a form usable to the director;

14 **(8)** [(9)] the contract may not be assigned in whole or in part by the  
 15 reinsurance intermediary manager;

16 **(9)** [(10)] the reinsurer shall establish written underwriting and rating  
 17 standards for the acceptance, rejection, or cession of all risks and the reinsurance  
 18 intermediary manager shall comply with the standards;

19 **(10)** [(11)] compensation including rates, terms, purposes of  
 20 commissions, charges, and other fees that the reinsurance intermediary manager may  
 21 levy against the reinsurer;

22 **(11)** [(12)] if the contract permits the reinsurance intermediary  
 23 manager to settle claims on behalf of the reinsurer,

24 (A) written settlement authority must be provided by the  
 25 reinsurer and may be terminated for cause upon the insurer's written notice by  
 26 certified mail to the reinsurance intermediary manager or upon the termination  
 27 of the contract; the reinsurer may suspend the settlement authority during a  
 28 dispute regarding the cause of termination;

29 (B) claims shall be reported to the reinsurer within 30 days;

30 (C) a copy of the claim file shall be sent to the reinsurer upon  
 31 request or as soon as it becomes known that the claim

(i) has the potential to exceed an amount determined by the director or exceeds the limit set by the insurer, whichever is less;

(ii) involves a coverage dispute;

(iii) may exceed the reinsurance intermediary manager's claims settlement authority;

(iv) is open for more than six months;

(v) involves extra contractual allegations; or

(vi) is closed by payment in excess of an amount set by the director or an amount set by the insurer, whichever is less;

(D) the reinsurance intermediary manager shall comply with unfair claims settlement statutes and regulations;

(E) transmission of electronic data at least once a month if electronic claims files are in existence;

(F) claim files shall be the property of both the reinsurer and reinsurance intermediary manager, but upon an order of liquidation of the reinsurer, the files shall become the sole property of the reinsurer or the reinsurer's estate; the reinsurance intermediary manager shall have reasonable access to and the right to copy the files on a timely basis;

**(12)** [(13)] if the contract provides for sharing of interim profits by the reinsurance intermediary manager, the interim profits may not be paid until

(A) one calendar year after the end of each underwriting period for property risks and five years after the end of each underwriting period for casualty risks;

(B) a later period established by the director for specified kinds or classes of insurance; and

(C) the profits have been verified under (e)(2) of this section;

**(13)** [(14)] the reinsurance intermediary manager may not

(A) cede retrocessions on behalf of the reinsurer, except that the reinsurance intermediary manager may cede facultative retrocessions under obligatory agreements if the contract with the reinsurer contains reinsurance underwriting guidelines including a list of reinsurers with which automatic



1 agreements are in effect, and, for each reinsurer, the coverage and amounts or  
2 percentages that may be reinsured, and commission schedules;

3 (B) commit the reinsurer to participate in reinsurance  
4 syndicates;

5 (C) appoint a subagent unless the scope of the subagent's  
6 license as an insurance producer includes the kinds and classes of insurance for  
7 which the subagent is appointed;

8 (D) pay or commit the reinsurer to pay a claim, net of  
9 retrocessions, the amount of which exceeds one percent of the reinsurer's  
10 policyholder's surplus as of December 31 of the last completed calendar year  
11 without the prior written approval of the reinsurer for the settlement and the  
12 approval is received after the reinsurer has been notified in writing that the  
13 claim settlement will exceed one percent of the reinsurer's policyholder's  
14 surplus as of December 31 of the last completed calendar year;

15 (E) collect payment from a retrocessionaire or commit the  
16 reinsurer to a claim settlement with a retrocessionaire without prior written  
17 approval of the reinsurer, but if prior written approval is given, a complete  
18 report shall be forwarded to the reinsurer within 30 days;

19 (F) jointly employ an individual who is employed with the  
20 reinsurer; or

21 (G) delegate reinsurance intermediary manager authority to  
22 another person;

23 **(14)** [(15)] if the insurer is domiciled in this state or the reinsurance  
24 intermediary manager has a place of business in this state, a copy of the contract must  
25 be filed with and approved by the director at least 30 days before the reinsurance  
26 intermediary manager transacts business on behalf of the reinsurer; if the reinsurer is  
27 not domiciled in this state or the reinsurance intermediary manager transacts business  
28 relative to a subject resident, located, or to be performed in this state from a place of  
29 business not physically located in this state, a copy of the contract required in this  
30 section must be filed with and approved by the director at least 30 days before the  
31 reinsurance intermediary manager transacts business on behalf of the insurer in this

1 state or relative to a subject resident, located, or to be performed in this state if the  
 2 insurer or the reinsurance intermediary manager are domiciled in a state not accredited  
 3 by the National Association of Insurance Commissioners; and

4 **(15)** [(16)] if the contract is not required to be approved in advance by  
 5 the director, the insurer shall provide written notification to the director within 30 days  
 6 of the entry into or termination of a contract with a reinsurance intermediary manager;  
 7 the notice must include a statement of duties to be performed by the reinsurance  
 8 intermediary manager on behalf of the reinsurer, the kinds and classes of insurance for  
 9 which the reinsurance intermediary manager has authorization to act, and other  
 10 information required by the director.

11 \* **Sec. 60.** AS 21.27.760 is amended by adding a new subsection to read:

12 (l) In this section, "transact" has the meaning given in AS 21.90.900.

13 \* **Sec. 61.** AS 21.27.790(2) is amended to read:

14 (2) **if required by the director by regulation maintain a bond as**  
 15 **described in AS 21.27.190 in an amount acceptable to the director** [HAVE AND  
 16 MAINTAIN WHILE LICENSED, A BOND IN THE SUM OF NOT LESS THAN  
 17 \$200,000 AGGREGATE LIABILITY AND] with the conditions that the surplus lines  
 18 broker conduct business under the provisions of this title, promptly remit the taxes and  
 19 fees provided by law, return premiums promptly when due, and pay proper losses  
 20 promptly;

21 \* **Sec. 62.** AS 21.27.800(g) is amended to read:

22 (g) In addition to any other penalty provided by law,

23 (1) the director shall revoke the license of a trainee surplus lines broker  
 24 who the director determines has violated the provisions of this section; a licensee or  
 25 other person having possession or custody of the license shall immediately surrender  
 26 the license to the director either personally or by certified mail;

27 (2) if the director determines under AS 21.06.170 - 21.06.240 that the  
 28 employing surplus lines broker knew of or should have known that a trainee licensed  
 29 under this section violated this section, the employing surplus lines broker and firm,  
 30 **and the compliance officer** [PRINCIPAL, AND MANAGER], if any, are subject to  
 31 the penalties provided under AS 21.27.440.

1     \* **Sec. 63.** AS 21.27.840(f) is amended to read:

2             (f) A trainee independent adjuster shall at all times be working at the direction  
3             and under the supervision of the employing licensed independent adjuster, and the file  
4             and record documentation shall reflect the direction and supervision. The employing  
5             licensed independent adjuster and its firm, **and the compliance officer** [MANAGER,  
6             AND PRINCIPAL], if any, are responsible for all insurance actions of the trainee  
7             independent adjuster.

8     \* **Sec. 64.** AS 21.27.840(i) is amended to read:

9             (i) In addition to any other penalty provided by law,

10            (1) a trainee independent adjuster who the director determines has  
11            violated the provisions of this section shall have its license terminated; a licensee or  
12            other person having possession or custody of the license shall within 30 days surrender  
13            the license to the director either personally or by certified mail;

14            (2) if the director determines under AS 21.06.170 - 21.06.240 that the  
15            employing licensed independent adjuster knew of or should have known that a trainee  
16            independent adjuster violated this section, the employing licensed independent  
17            adjuster and firm, **and the compliance officer** [PRINCIPAL AND MANAGER], if  
18            any, are subject to the penalties provided under AS 21.27.440.

19     \* **Sec. 65.** AS 21.27.900(10) is amended to read:

20            (10) "individual" means a natural person required to be licensed under  
21            AS 21.27.010 [WHO IS NOT ACTING IN ASSOCIATION WITH TWO OR MORE  
22            LICENSEES, EITHER IN PARTNERSHIP, CORPORATION, OR OTHERWISE,  
23            OR AN ORGANIZATION IN WHICH A SINGLE LICENSEE HAS 50 PERCENT  
24            OR MORE OWNERSHIP INTEREST IN THE ORGANIZATION];

25     \* **Sec. 66.** AS 21.27.900 is amended by adding new paragraphs to read:

26            (23) "compliance officer" means a licensee under this chapter that is  
27            responsible for a firm's compliance with the insurance statutes and regulations of this  
28            state;

29            (24) "home state" means the District of Columbia or a state or territory  
30            of the United States in which an insurance producer maintains the producer's principal  
31            place of residence or principal place of business and is licensed to act as an insurance

1 producer;

2 (25) "insurance producer" means a person who sells, solicits, or  
3 negotiates insurance or insurance products;

4 (26) "license" means, unless the context requires otherwise, a  
5 document issued by the director of insurance authorizing a person to act for the type,  
6 class, and lines of authority specified in the document;

7 (27) "limited lines credit insurance" includes credit life, credit  
8 disability, credit property, credit unemployment, involuntary unemployment, mortgage  
9 life, mortgage guaranty, mortgage disability, guaranteed automobile protection  
10 insurance, and any other form of insurance offered in connection with an extension of  
11 credit that is limited to partially or wholly extinguishing that credit obligation that the  
12 director of insurance determines must be designated a form of limited lines credit  
13 insurance;

14 (28) "limited lines" means those lines of insurance defined in  
15 AS 21.27.150 or any other line of insurance that the director of insurance designates  
16 by order as a limited line;

17 (29) "negotiate" means the act of conferring directly with or offering  
18 advice directly to a purchaser or prospective purchaser of a particular contract of  
19 insurance concerning any of the substantive benefits, terms, or conditions of the  
20 contract if the person engaged in that act either sells insurance or obtains insurance  
21 from insurers for purchasers;

22 (30) "sells" means to exchange a contract of insurance by any means,  
23 for money or its equivalent, on behalf of an insurance company;

24 (31) "solicit" means attempting to sell insurance or asking or urging a  
25 person to apply for a particular kind of insurance from a particular company;

26 (32) "transact" or "transact business" means sell, solicit, or negotiate  
27 insurance or insurance products;

28 (33) "uniform application" means the most recent version of the  
29 uniform application of the National Association of Insurance Commissioners;

30 (34) "uniform business entity application" means the most recent  
31 version of the uniform business entity application of the National Association of

Insurance Commissioners.

\* **Sec. 67.** AS 21.36 is amended by adding new sections to read:

**Sec. 21.36.162. Nondisclosure of personal financial and personal health information.** The director shall adopt regulations regarding the release of financial and health information regarding an individual who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes. The regulations must be at least as restrictive as the model regulations adopted under the National Conference of Insurance Legislators Financial Information Privacy Protection Model Act, adopted by the National Conference of Insurance Legislators Executive Committee on November 17, 2000, and amended on March 2, 2001.

**Sec. 21.36.164. Licensing of persons in a financial institution.** A financial institution may not allow a person to transact insurance in an office of the institution or on behalf of the institution, unless the person is licensed as required under AS 21.27.

\* **Sec. 68.** AS 21.36.165 is amended to read:

**Sec. 21.36.165. Anticoercion and antitying [FAVORED AGENT OR INSURER; COERCION OF DEBTORS].** A person may not

(1) require, as a condition to the lending of money or extension of credit, or a renewal of the loan or extension of credit, that the obligee of the money or credit negotiate a policy or contract of insurance through any particular person or group of persons;

(2) disapprove the insurance policy provided by a borrower for the protection of property securing credit or a loan [LIEN] if disapproval is based on other than reasonable standards uniformly applied and relating to the extent of coverage required and the financial soundness and the services of the insurer; the standards may not discriminate against a particular type of insurer [,] or call for the disapproval of a policy containing coverage in addition to that required;

(3) unless charges are required when the person handling the insurance transaction is a licensee, require a consumer [BORROWER, MORTGAGOR, PURCHASER], insurer, broker, or agent to pay a separate charge for

1 handling an insurance policy required as security for a loan on real property, or to pay  
 2 a separate charge to substitute the insurance policy of one insurer for that of another,  
 3 except that interest may be charged on premium loans or [OF] premium advancements  
 4 in accordance with the security instrument [;

5 (4) USE OR DISCLOSE INFORMATION RESULTING FROM A  
 6 REQUIREMENT THAT A BORROWER, MORTGAGOR, OR PURCHASER  
 7 FURNISH INSURANCE OF ANY KIND ON REAL PROPERTY BEING  
 8 CONVEYED OR USED AS COLLATERAL SECURITY TO A LOAN, WHEN THE  
 9 INFORMATION IS TO THE ADVANTAGE OF THE MORTGAGEE, VENDOR,  
 10 OR LENDER, OR IS TO THE DETRIMENT OF THE BORROWER,  
 11 MORTGAGOR, PURCHASER, INSURER, AGENT, OR BROKER COMPLYING  
 12 WITH THE REQUIREMENT].

13 \* **Sec. 69.** AS 21.36.165 is amended by adding new subsections to read:

14 (b) A person shall

15 (1) use separate documents for an insurance transaction, other than  
 16 credit insurance or flood insurance, and for a credit transaction; and

17 (2) maintain separate and distinct records relating to insurance  
 18 transactions, including consumer complaint information, and make the records  
 19 available to the director for inspection upon notice.

20 (c) A person may not include insurance premiums in a primary credit  
 21 transaction without the consent of the consumer.

22 (d) Nothing in this section prohibits a person from informing a consumer or  
 23 prospective consumer that insurance is required in order to obtain a loan or credit, that  
 24 loan or credit approval is contingent on the procurement of acceptable insurance by  
 25 the consumer, or that insurance is available from the person.

26 \* **Sec. 70.** AS 21.36 is amended by adding new sections to read:

27 **Sec. 21.36.167. Misrepresentation in financial institution sales.** In the sale  
 28 of insurance by a financial institution, a person may not engage in any practice or use  
 29 an advertisement that may tend to mislead or deceive a consumer or cause a consumer  
 30 to erroneously believe that

31 (1) the insurance is backed by or a return on the insurance is

1 guaranteed by the state, the federal government, the person, or the Federal Deposit  
2 Insurance Corporation;

3 (2) the state or federal government

4 (A) will pay a claim under an insurance contract that is an  
5 obligation of or was sold by the person;

6 (B) is responsible for the insurance sales activities of the  
7 person; or

8 (C) guarantees the credit of the person;

9 (3) for insurance that contains investment risk, the insurance does not  
10 contain investment risk, the principal may not be lost, or the value of the insurance  
11 may not decline;

12 (4) the lending of money, extension of credit, or a renewal of a loan is  
13 conditioned on the purchase of insurance from the person and that insurance may not  
14 be purchased from another source.

15 **Sec. 21.36.168. Disclosures required in financial institution sales.** (a) In  
16 the sale of insurance by a financial institution, a person shall disclose both orally and  
17 in writing to a consumer before the initial purchase of insurance that

18 (1) the insurance is not a deposit or other obligation of the person;

19 (2) the insurance is not guaranteed by the person or the person  
20 soliciting insurance;

21 (3) the insurance is not insured by the Federal Deposit Insurance  
22 Corporation or other agency of the United States, the financial institution, or the  
23 person;

24 (4) if the insurance contains risk, the insurance contains investment  
25 risk and the insurance may lose value;

26 (5) the consumer is not required to negotiate a policy or contract of  
27 insurance through any particular person or group of persons as a condition to the  
28 lending of money or extension of credit, or a renewal of the loan or extension of  
29 credit, except that the person may impose reasonable requirements uniformly applied  
30 and relating to the extent of coverage required and the financial soundness and the  
31 services of the insurer and that the standards may not discriminate against a particular

1 type of insurer or require disapproval of a policy containing coverage in addition to  
2 that required.

3 (b) A person shall also provide the disclosures required in (a) of this section to  
4 a consumer both orally and in writing at the time of application for an extension of  
5 credit.

6 (c) If an application for insurance is made by telephone, written disclosure as  
7 required in (a) of this section must be mailed to the consumer within three working  
8 days.

9 (d) A person may provide the disclosures required in (a) of this section  
10 electronically, if

11 (1) the consumer affirmatively consents to electronic disclosure; and

12 (2) the disclosures are provided in a format that the consumer is able to  
13 access at a later time by a method such as through printing or storing the disclosures  
14 electronically.

15 (e) A person shall provide the disclosures required in (a) of this section in a  
16 meaningful form and in a conspicuous, simple, direct, and understandable manner that  
17 is designed to call attention to the information provided.

18 (f) A person shall obtain a written acknowledgment or, in the case of an  
19 electronic disclosure provided in compliance with (d) of this section, a written or  
20 electronic acknowledgment, by the consumer that the consumer received the  
21 disclosures as required in this section.

22 (g) This section does not require that a person provide the disclosures required  
23 in this section in advertisements that are of a general nature or that describe or list the  
24 services or products offered by a financial institution or on behalf of a financial  
25 institution.

26 (h) In this section, "meaningful form" means

27 (1) for other than an electronic form, a form of disclosure that is  
28 provided to a consumer orally and in writing;

29 (2) for an electronic form, a disclosure that a consumer cannot  
30 electronically bypass before purchasing insurance.

31 **Sec. 21.36.169. Definitions for AS 21.36.164 - 21.36.169.** In AS 21.36.164 -



1 21.36.169, unless the context otherwise requires,

2 (1) "consumer" means a person who obtains, applies to obtain, or is  
3 solicited to obtain insurance from or on behalf of a financial institution;

4 (2) "financial institution" means a bank holding company under  
5 12 U.S.C. 1841 (Bank Holding Company Act of 1956); a credit union under 12 U.S.C.  
6 1752 (Federal Credit Union Act), a bank, savings bank, savings and loan association,  
7 or trust company, or any depository institution under 12 U.S.C. 1813(c)(1); and any  
8 other person authorized to take federally insured deposits and make loans in the state;  
9 "financial institution" includes any employee or agent of a financial institution and any  
10 nondepository affiliate or subsidiary of a financial institution but only in the instances  
11 when the nondepository affiliate or subsidiary is soliciting the sale or purchase of  
12 insurance recommended or sponsored by, on the premises of, or in connection with a  
13 product offering of the financial institution; "financial institution" does not include an  
14 insurer.

15 \* **Sec. 71.** AS 21.36 is amended by adding a new section to read:

16 **Sec. 21.36.355. Felony convictions involving dishonesty or breach of trust.**

17 (a) A person who has a conviction for a felony involving dishonesty or a breach of  
18 trust may not engage or participate in the business of insurance without receiving prior  
19 written consent by the director as required under 18 U.S.C. 1033 and 1034 (Violent  
20 Crime Control and Law Enforcement Act of 1994).

21 (b) A person who fails to seek prior written consent from the director under (a)  
22 of this section is in violation of this chapter.

23 (c) A person who is engaged in the business of insurance may not knowingly  
24 permit the participation in the business of insurance by a person who has been  
25 convicted of a felony involving dishonesty or breach of trust except as allowed under  
26 (a) of this section.

27 \* **Sec. 72.** AS 21.36.360 is amended by adding a new subsection to read:

28 (r) The director of insurance may adopt regulations to implement, define, and  
29 enforce this section.

30 \* **Sec. 73.** AS 21.36.430(a) is amended to read:

31 (a) **A person transacting** [AN INSURER OFFERING] insurance in this state

may not (1) refuse to issue or renew insurance coverage; (2) **limit the scope of insurance coverage;** (3) cancel an existing policy of insurance; (4) [(3)] deny a covered claim; or (5) [(4)] increase the premium on an insurance policy if the refusal, cancellation, denial, or increase results only from the fact that the person was a victim of domestic violence **or a provider of services to victims of domestic violence.**

\* **Sec. 74.** AS 21.36.430 is amended by adding a new subsection to read:

(c) In this section, "domestic violence" means the occurrence of one or more of the following by a current or former family member, household member, intimate partner, or caretaker:

(1) attempting to cause, causing, or threatening another person with physical harm, severe emotional distress, psychological trauma, rape, or sexual assault;

(2) engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances that place the person in reasonable fear of bodily injury or physical harm;

(3) subjecting another person to false imprisonment; or

(4) attempting to cause or causing damage to property so as to intimidate or attempt to control the behavior of another person.

\* **Sec. 75.** AS 21.39.040(a) is amended to read:

(a) Each insurer shall file with the director, except as to inland marine risks, which, by general custom of the business, are not written according to manual rates or rating plans, **and except for rates for commercial insurance for which the director, by regulation, authorizes an informational filing as set out in (k) of this section,** every manual, minimum, class rate, rating schedule, or rating plan and every other rating rule, and each modification of any of them that it proposes to use. Each filing shall state the proposed effective date and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports the filing, and the director does not have sufficient information to determine whether the filing meets the requirements of this chapter, the director shall require the insurer to furnish the information upon which it supports the

filing, and, in that event, the waiting period shall commence as of the date the information is furnished. The information furnished in support of a filing may include (1) the experience or judgment of the insurer or rating organization making the filing; (2) its interpretation of the statistical data it relies upon; (3) the experience of other insurers or rating organizations; or (4) any other relevant factors. A filing and supporting information shall be open to public inspection after the filing becomes effective. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the director.

\* Sec. 76. AS 21.39.040(k) is amended to read:

(k) The director

(1) may adopt regulations detailing the format and content of a rating system filing under this section;

(2) shall, by July 1, 2002, adopt regulations consistent with the National Association of Insurance Commissioners Property and Casualty Model Rate and Policy Form Act, including those provisions relating to the format and content of informational filings for rates for commercial insurance; the provisions of AS 21.39.030(a) apply to an informational filing authorized by the director; in this paragraph, "informational filing" means a filing that the director does not approve before its use and that meets the format and content requirements of regulations adopted by the director.

\* Sec. 77. AS 21.42.120(a) is amended to read:

(a) A basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, may not be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the director. This provision does not apply to surety bonds or to specially rated inland marine risks, nor to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or that [WHICH] relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder; or to policies of

1 **commercial insurance that the director has authorized under (d) of this section to**  
 2 **be filed on or before the date of use and that are not subject to the prior approval**  
 3 **of the director.** The filing required by this section of forms for use in property,  
 4 marine other than wet marine and transportation coverages, casualty, and surety  
 5 coverages may be made by a rating organization on behalf of its members and  
 6 subscribers; but this provision does not prohibit a member or subscriber from filing the  
 7 forms on its own behalf.

8 \* **Sec. 78.** AS 21.42.120(d) is amended to read:

9 (d) The director may, by order, exempt from the requirements of this section  
 10 for a time determined by the director an insurance document or form or type thereof as  
 11 specified in the order, to which, in the opinion of the director, this section may not  
 12 practicably be applied, or the filing and approval of which are, in the opinion of the  
 13 director, not desirable or necessary for the protection of the public. **The director**  
 14 **shall, by July 1, 2002, adopt regulations consistent with the National Association**  
 15 **of Insurance Commissioners Property and Casualty Model Rate and Policy Form**  
 16 **Act authorizing a policy of commercial insurance to be filed on or before the date**  
 17 **of use and to be not subject to the prior approval of the director.**

18 \* **Sec. 79.** AS 21.87.220(b) is amended to read:

19 (b) **AS 21.21 shall** [THE FOLLOWING SECTIONS] apply to the investments  
 20 of service corporations, to the extent applicable, and for the purposes of the  
 21 application a service corporation shall be considered to be an insurer [: AS 21.21.020 -  
 22 21.21.050, 21.21.290, AND 21.21.300].

23 \* **Sec. 80.** AS 21.89.080 is repealed and reenacted to read:

24 **Sec. 21.89.080. Electronic submissions.** The director may, by regulation or  
 25 by order, provide for the electronic submission of any information or written  
 26 submission required by this title and for an electronic confirmation of a required  
 27 submission.

28 \* **Sec. 81.** AS 21.90.900(24) is repealed and reenacted to read:

29 (24) "insurance producer" has the meaning given in AS 21.27.900;

30 \* **Sec. 82.** AS 21.27.150(b), 21.27.170, 21.27.530(5), 21.27.900(14), and 21.27.900(16) are  
 31 repealed.

1     \* **Sec. 83.** AS 21.27.190(d), 21.27.365, and 21.27.900(7) are repealed.

2     \* **Sec. 84.** AS 21.18.120, 21.18.130, 21.18.140, 21.18.150; AS 21.21.030, 21.21.040,  
3 21.21.050, 21.21.060, 21.21.070, 21.21.080, 21.21.090, 21.21.100, 21.21.110, 21.21.120,  
4 21.21.130, 21.21.140, 21.21.150, 21.21.160, 21.21.170, 21.21.180, 21.21.190, 21.21.200,  
5 21.21.210, 21.21.220, 21.21.225, 21.21.230, 21.21.240, 21.21.245, 21.21.250, 21.21.260,  
6 21.21.270, 21.21.280, 21.21.290, 21.21.300, 21.21.310, 21.21.321, 21.21.330, 21.21.350,  
7 21.21.355, 21.21.360, 21.21.370, 21.21.380, 21.21.390, 21.21.400, 21.21.600;  
8 AS 21.87.340(7), and 21.87.340(8) are repealed.

9     \* **Sec. 85.** The uncoded law of the State of Alaska is amended by adding a new section to  
10 read:

11           INDIRECT COURT RULE AMENDMENT. (a) The provisions of AS 21.27.110(h),  
12 as repealed and reenacted by sec. 23 of this Act, have the effect of amending Rule 402,  
13 Alaska Rules of Evidence, by making inadmissible in court, except under certain  
14 circumstances, the statement of reasons for termination of an appointment under  
15 AS 21.27.110.

16           (b) The provisions of AS 21.27.110(h), as repealed and reenacted by sec. 23 of this  
17 Act, that relate to admissibility of evidence in court take effect only if (a) of this section  
18 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution  
19 of the State of Alaska.

20     \* **Sec. 86.** The uncoded law of the State of Alaska is amended by adding a new section to  
21 read:

22           TRANSITION: REGULATIONS. The director of insurance may immediately  
23 proceed to adopt regulations necessary to implement the changes made by this Act. The  
24 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
25 effective date of the statutory change.

26     \* **Sec. 87.** The uncoded law of the State of Alaska is amended by adding a new section to  
27 read:

28           CERTIFICATION OF EFFECTIVE DATE OF REGULATIONS. The lieutenant  
29 governor shall certify to the revisor of statutes the effective date of the regulations initially  
30 adopted by the director of insurance under AS 21.21.420, enacted by sec. 8 of this Act, to  
31 implement the provisions of secs. 3 - 9 and 79 of this Act regarding investments by insurers.

1     \* **Sec. 88.** Sections 1, 17, 18, 80, and 86 of this Act take effect immediately under  
2 AS 01.10.070(c).

3     \* **Sec. 89.** Sections 2, 33 - 39, 45, 46, 48, 49, 51, 54, 57, 59, 71, 75 - 78, and 83 of this Act  
4 take effect July 1, 2002.

5     \* **Sec. 90.** Sections 67 - 70, 73, and 74 of this Act take effect July 1, 2001.

6     \* **Sec. 91.** Sections 3 - 9, 79, and 84 of this Act take effect 30 days after the revisor of  
7 statutes receives notice from the lieutenant governor under sec. 87 of this Act.

8     \* **Sec. 92.** Except as provided in secs. 88 - 91 of this Act, this Act takes effect January 1,  
9 2002.