



# LAWS OF ALASKA

2005

FIRST SPECIAL SESSION

**Source**  
CCS HB 147

**Chapter No.**  
\_\_\_\_\_

## AN ACT

Relating to notice of suspension or revocation of an insurer's certificate of authority and the effect of the suspension or revocation upon the authority of agents and managing general agents of the insurer; relating to certain deposits under AS 21; relating to the yielding of assets and securities held on deposit; relating to third-party administrators under AS 21; relating to insurance agents, managing general agents, reinsurance intermediary managers, and insurance producers; requiring the director of insurance to notify a licensee of a license renewal before the renewal date; defining the term "appointment" as used in part of AS 21; relating to the eligibility to provide coverage by a nonadmitted insurer and alien insurer; relating to surplus lines insurance and brokers; relating to misrepresentations and false advertising concerning insurance; relating to health discount plans; providing for limitations on owner controlled and contractor controlled insurance programs and limiting the coverage of those programs; prohibiting excessive, inadequate, or unfairly discriminatory rate charges for health insurance; defining the term "plan administrator" as used in part of AS 21; defining the term "transact" as used in AS 21; authorizing the director of insurance to designate a person to receive annual reports from companies; reducing the period for filing a quarterly financial statement; and providing for an effective date.

---

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

THE ACT FOLLOWS ON PAGE 1



## **AN ACT**

1 Relating to notice of suspension or revocation of an insurer's certificate of authority and the  
2 effect of the suspension or revocation upon the authority of agents and managing general  
3 agents of the insurer; relating to certain deposits under AS 21; relating to the yielding of  
4 assets and securities held on deposit; relating to third-party administrators under AS 21;  
5 relating to insurance agents, managing general agents, reinsurance intermediary managers,  
6 and insurance producers; requiring the director of insurance to notify a licensee of a license  
7 renewal before the renewal date; defining the term "appointment" as used in part of AS 21;  
8 relating to the eligibility to provide coverage by a nonadmitted insurer and alien insurer;  
9 relating to surplus lines insurance and brokers; relating to misrepresentations and false  
10 advertising concerning insurance; relating to health discount plans; providing for limitations  
11 on owner controlled and contractor controlled insurance programs and limiting the coverage

1 of those programs; prohibiting excessive, inadequate, or unfairly discriminatory rate charges  
2 for health insurance; defining the term "plan administrator" as used in part of AS 21; defining  
3 the term "transact" as used in AS 21; authorizing the director of insurance to designate a  
4 person to receive annual reports from companies; reducing the period for filing a quarterly  
5 financial statement; and providing for an effective date.

6  
7 \* **Section 1.** AS 21.06.130(a) is amended to read:

8 (a) To determine compliance with this title, the director may, as often as the  
9 director **has reasonable cause**, [CONSIDERS ADVISABLE] examine or require a  
10 written report from a person of the accounts, records, documents, and transactions  
11 pertaining to or affecting the insurance affairs or proposed insurance affairs of

12 (1) an insurance producer or independent adjuster; or

13 (2) a person engaged in or proposing to be engaged in or assisting in  
14 the promotion or formation of a domestic insurer or insurance holding corporation, or  
15 corporation to finance a domestic insurer or the production of its business.

16 \* **Sec. 2.** AS 21.09.160 is amended to read:

17 **Sec. 21.09.160. Notice of suspension or revocation and effect upon agent's**  
18 **authority.** (a) Upon suspending or revoking an insurer's certificate of authority, the  
19 director shall immediately give notice to the insurer and [TO ITS AGENTS OF  
20 RECORD IN THIS STATE IN THE DIRECTOR'S OFFICE. THE DIRECTOR] shall  
21 also publish notice of the revocation in one or more newspapers of general circulation  
22 in this state.

23 (b) The suspension or revocation shall automatically suspend or revoke, as the  
24 case may be, the authority of all its agents **and managing general agents** to act as  
25 agents **or managing general agents** of the insurer in this state, and the **insurer**  
26 [DIRECTOR] shall so state in the notice to agents **and managing general agents**  
27 provided for in **(c)** [(a)] of this section.

28 \* **Sec. 3.** AS 21.09.160 is amended by adding a new subsection to read:

29 (c) Upon notification of suspension or revocation of an insurer's certificate of

1 authority, the insurer shall immediately give notice of the suspension or revocation to  
2 its agents and managing general agents operating in this state.

3 \* **Sec. 4.** AS 21.24.040(a) is amended to read:

4 (a) Deposits made in this state under this title shall be made through the office  
5 of the director [IN SAFE DEPOSIT OR] under custodial arrangements as required or  
6 approved by the director consistent with the purposes of the deposit, with an  
7 established safe deposit institution, bank, or trust company located in this state  
8 selected by the insurer with the director's approval.

9 \* **Sec. 5.** AS 21.24.040(c) is amended to read:

10 (c) If of convenience to the insurer in the buying, selling, and exchange of  
11 securities **making up** [COMPRISING] its deposit, and in the collection of interest and  
12 other income currently accruing **on the securities** [THEREON], the insurer may, with  
13 the director's advance written approval, deposit a portion of the securities under  
14 custodial arrangements with an established bank or trust company located outside this  
15 state, if receipts representing all the securities are issued by the custodial bank or trust  
16 company and are held in [SAFE DEPOSIT OR] custody subject to the requirements of  
17 (a) [AND (b)] of this section.

18 \* **Sec. 6.** AS 21.24.130(d) is amended to read:

19 (d) If the insurer is subject to delinquency proceedings as defined in AS 21.78,  
20 upon the order of a court of competent jurisdiction, the director shall yield the assets  
21 and securities held on deposit **under AS 21.09.090(b)** to the receiver, conservator,  
22 rehabilitator, or liquidator of the insurer, or to any other properly designated official or  
23 officials who succeed to the management and control of the insurer's assets. **The**  
24 **director may release the deposit directly to the guaranty fund of which the**  
25 **insurer is a member if the right to receive all or a portion of the deposit is**  
26 **assigned to the guaranty fund.**

27 \* **Sec. 7.** AS 21.27.010(c) is amended to read:

28 (c) A **third-party administrator** [PERSON WHO FOR A RESIDENT OF  
29 THIS STATE, OR FOR A RESIDENT OF ANOTHER JURISDICTION FROM A  
30 PLACE OF BUSINESS IN THIS STATE, PERFORMS ADMINISTRATIVE  
31 FUNCTIONS, INCLUDING CLAIMS ADMINISTRATION AND PAYMENT,

MARKETING ADMINISTRATIVE FUNCTIONS, PREMIUM ACCOUNTING, PREMIUM BILLING, COVERAGE VERIFICATION, UNDERWRITING AUTHORITY, OR CERTIFICATE ISSUANCE ONLY IN REGARD TO LIFE INSURANCE, HEALTH INSURANCE, OR ANNUITIES] is not required to be licensed as a managing general agent if the **third-party administrator** [PERSON]

(1) is registered under **AS 21.27.630 - 21.27.660** [THIS CHAPTER AS A THIRD-PARTY ADMINISTRATOR]; or

(2) only investigates and adjusts claims and is licensed under this chapter as an independent adjuster.

\* **Sec. 8.** AS 21.27.100 is repealed and reenacted to read:

**Sec. 21.27.100. Appointment of insurance producer, managing general agent, and reinsurance intermediary manager; acts of agent.** (a) An appointment is required to be made in accordance with this section when one or more of the following has occurred:

(1) an admitted insurer appoints a managing general agent in this state or relative to a subject resident, located, or to be performed in this state;

(2) a managing general agent appoints an insurance producer as its subagent in this state or relative to subjects resident, located, or to be performed in this state;

(3) a domestic reinsurer appoints a reinsurance intermediary manager;

(4) a reinsurance intermediary manager appoints an insurance producer as its subagent in this state.

(b) An admitted insurer shall appoint an insurance producer as its agent in this state or relative to a subject resident, located, or to be performed in this state not later than 30 days after the date that a written agency contract is executed or the first insurance application is submitted to the admitted insurer by the licensed insurance producer.

(c) An individual in a firm who acts solely on behalf of a firm that is appointed as an agent or a managing general agent on behalf of an admitted insurer under this section may not be required to also have an appointment under this section if the individual in the firm is licensed with that firm for a specific class of authority.

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

4 (e) An insurer and managing general agent shall maintain a current list of all  
5 appointments made or required to be made under this section that identifies the  
6 licensee's name, licensee's mailing address, license number, and effective date of  
7 appointment.

8 (f) An insurance producer shall maintain a list of all appointments made or  
9 required to be made under this section that identifies the insurer's name, insurer's  
10 mailing address, and effective date of appointment.

11 (g) An insurer, managing general agent, or insurance producer shall reply in  
12 writing within three working days to an inquiry of the director regarding an  
13 appointment.

14 \* **Sec. 9.** AS 21.27.110 is repealed and reenacted to read:

15 **Sec. 21.27.110. Term of appointment.** (a) An appointment under  
16 AS 21.27.100 continues in force until the appointment is terminated in writing.

17 (b) If an insurer, reinsurer, or authorized representative discovers information  
18 showing that the appointee whose appointment was terminated has engaged in an  
19 activity identified in AS 21.27.410 during the period of the appointment, the insurer,  
20 reinsurer, or authorized representative shall, on a form or in a format prescribed by the  
21 director, promptly notify the director.

22 (c) Within 15 days after providing notification in accordance with (b) of this  
23 section, the insurer, reinsurer, or authorized representative shall mail a copy of the  
24 notification to the appointee at the last address on record with the insurer, reinsurer, or  
25 authorized representative. The notice must be provided by certified mail, return  
26 receipt requested, postage prepaid, or by overnight delivery using a nationally  
27 recognized mail carrier.

28 (d) Within 30 days after the appointee receives notification in accordance with  
29 (c) of this section, the appointee may file written comments concerning the substance  
30 of the notification with the director and shall provide a copy of the written comments  
31 to the insurer, reinsurer, or authorized representative. The written comments filed

1 with the director must be included with each report distributed or disclosed concerning  
2 a reason about the termination of the appointment.

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

6 (f) A notice of termination submitted to the director under this section must  
7 include a statement of the reasons for the termination. A statement of the reasons for  
8 termination is confidential and not subject to inspection and copying under  
9 AS 40.25.110. A statement of reasons for the termination may not be admitted as  
10 evidence in a civil action or an administrative proceeding against an insurer, reinsurer,  
11 or authorized representative by or on behalf of a person affected by the termination,  
12 except when the action or proceeding involves perjury, unsworn falsification, fraud, or  
13 failure to comply with this subsection.

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

19 \* **Sec. 10.** AS 21.27.380(a) is amended to read:

20 (a) Except as provided in this title, the director may renew a license biennially  
21 on a date set by the director if the licensee continues to be qualified under this chapter  
22 and, on or before the close of business of the renewal date, meets all renewal  
23 requirements established by regulation and pays the renewal license fees set under  
24 AS 21.06.250 for each license to the director. A licensee is responsible for knowing  
25 the date that a license lapses and for renewing a license before expiration. The  
26 director shall **notify the licensee of the license renewal** [MAIL A RENEWAL  
27 NOTICE TO THE LICENSEE'S CURRENT ADDRESS ON FILE WITH THE  
28 DIRECTOR] 30 days before the renewal date.

29 \* **Sec. 11.** AS 21.27.630(b) is amended to read:

30 (b) A third-party administrator may not transact business for a kind or class of  
31 **authority** [INSURANCE] for which the person is not registered.

1     \* **Sec. 12.** AS 21.27.630(c) is amended to read:

2             (c)     **Except as otherwise provided in this chapter, a third-party**  
3             **administrator** [A PERSON WHO PERFORMS ADMINISTRATIVE FUNCTIONS,  
4             INCLUDING CLAIMS ADMINISTRATION AND PAYMENT, MARKETING  
5             ADMINISTRATIVE FUNCTIONS, PREMIUM ACCOUNTING, PREMIUM  
6             BILLING, COVERAGE VERIFICATION, UNDERWRITING AUTHORITY, OR  
7             CERTIFICATE ISSUANCE IN REGARD TO INSURANCE AS A THIRD-PARTY  
8             ADMINISTRATOR] shall be registered **under AS 21.27.630 - 21.27.660** [AS A  
9             THIRD-PARTY ADMINISTRATOR] unless the **third-party administrator**  
10            [PERSON] only investigates and adjusts claims and is licensed under this chapter as  
11            an independent adjuster.

12     \* **Sec. 13.** AS 21.27.630 is amended by adding new subsections to read:

13            (k) An insurer that holds a certificate of authority issued by the director and is  
14            in good standing under this title is not required to be registered as a third-party  
15            administrator in this state.

16            (l) A person that is not required to be registered as a third-party administrator  
17            under (e) - (k) of this section must file a certification with the director that the person  
18            meets the requirements for exemption.

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

20            (a) An insurer may not transact business with a third-party administrator  
21            unless

22                    (1) the insurer holds a certificate of authority in this state **if required**  
23                    **under this title;**

24                    (2) the third-party administrator is registered under this chapter or **the**  
25                    **third-party administrator has filed a certification with the director certifying that**  
26                    [, WHEN] the third-party administrator is operating only for a foreign insurer **other**  
27                    **than a self-funded multiple employer welfare arrangement regulated under**  
28                    **AS 21.85 and** [,] is registered as a third-party administrator by the third-party  
29                    administrator's resident insurance regulator in a state that the director has determined  
30                    has enacted provisions substantially similar to those contained in AS 21.27.630 -  
31                    21.27.650 and that is accredited by the National Association of Insurance

Commissioners;

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

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

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

(C) other information the director may require;

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

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

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

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

(C) all money collected for the account of an insurer shall be held by the third-party administrator as a fiduciary;

(D) all payments on behalf of the insurer shall be held by the third-party administrator as a fiduciary;

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

(F) the third-party administrator shall maintain separate records for each insurer in a form usable by the insurer; the insurer or its authorized representative shall have the right to audit and the right to copy all accounts

1 and records related to the insurer's business; the director, in addition to other  
2 authority granted in this title, shall have access to all books, bank accounts, and  
3 records of the third-party administrator in a form usable to the director; any  
4 trade secrets contained in books and records reviewed by the director,  
5 including the identity and addresses of policyholders and certificate holders,  
6 shall be kept confidential, except that the director may use the information in a  
7 proceeding instituted against the third-party administrator or the insurer;

8 (G) the contract may not be assigned in whole or in part by the  
9 third-party administrator;

10 (H) if the contract permits the third-party administrator to do  
11 underwriting, the contract must include the following:

12 (i) the third-party administrator'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) if the contract permits the third-party administrator to  
25 administer claims on behalf of the insurer, the contract must include the  
26 following:

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

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

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

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

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

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

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

25 \* **Sec. 15.** AS 21.27.650 is amended by adding a new subsection to read:

26 (q) The director may, without advance notice or hearing, immediately suspend  
27 by order the registration of a third-party administrator if the director finds that one or  
28 more of the following circumstances exist:

29 (1) the third-party administrator is insolvent or impaired;

30 (2) a proceeding for bankruptcy, receivership, conservatorship, or  
31 rehabilitation, or another delinquency proceeding regarding the third-party

1 administrator has been commenced in any state or by a governmental agency of  
2 another jurisdiction;

3 (3) the third-party administrator is in an unsound condition, or is in a  
4 condition or using methods or practices that render its further transaction of insurance  
5 injurious to policy holders or the public.

6 \* **Sec. 16.** AS 21.27 is amended by adding a new section to article 4 to read:

7 **Sec. 21.27.660. Definitions.** In AS 21.27.630 - 21.27.660,

8 (1) "insurer" includes the Comprehensive Health Insurance  
9 Association created under AS 21.55.010 and any person issued or required to obtain a  
10 certificate of authority under this title to transact life insurance, annuities, and health  
11 insurance or to provide coverage for the cost of medical care;

12 (2) "transact" has the meaning given in AS 21.90.900.

13 \* **Sec. 17.** AS 21.27.900 is amended by adding a new paragraph to read:

14 (33) "appointment" means an act by a person evidencing a grant of  
15 authority to another to act on the grantor's behalf.

16 \* **Sec. 18.** AS 21.34.040(d) is amended to read:

17 (d) A nonadmitted insurer may be eligible to provide coverage in this state if it  
18 furnishes to the director a copy of its current annual statement that has been certified  
19 by the insurer. **Except in the case of an alien insurer, the** [THE] statement shall be  
20 provided **not** [NO] more than six months after the close of the period reported upon  
21 and that is either filed with and approved by the regulatory authority in the domicile of  
22 the nonadmitted insurer, or certified by an accounting or auditing firm licensed in the  
23 jurisdiction of the insurer's domicile. **An alien insurer shall provide the statement**  
24 **not later than nine months after the close of the reporting period.** In the case of  
25 an insurance exchange, the statement may be an aggregate combined statement of all  
26 underwriting syndicates operating during the period reported upon.

27 \* **Sec. 19.** AS 21.34.100(a) is amended to read:

28 (a) When surplus lines insurance is placed, the surplus lines broker shall  
29 promptly deliver to the named insured or the producing broker the policy or, if the  
30 policy is not then available, a [CERTIFICATE,] cover note, binder, or other evidence  
31 of insurance. The [CERTIFICATE,] cover note, binder, or other evidence of

1 insurance for the named insured shall be executed by the surplus lines broker and must  
2 contain a summary of all material facts that would regularly be included in the policy,  
3 the description and location of the subject of insurance, a general description of the  
4 coverages of the insurance, the premium and rate charged and taxes to be collected  
5 from the insured, the name and address of the insured, the name of each surplus lines  
6 insurer and the percentage of the entire risk assumed by each, the name of the surplus  
7 lines broker, and the license number of the surplus lines broker.

8 \* **Sec. 20.** AS 21.34.100(f) is amended to read:

9 (f) **A producing broker or other licensee may issue to a person, other than**  
10 **the named insured, a certificate** [EVERY CERTIFICATE ISSUED BY THE  
11 PRODUCING BROKER OR OTHER LICENSEE] as evidence of insurance  
12 negotiated, placed, or procured under this chapter. **The certificate** must bear the  
13 name of the surplus lines broker, which may not be covered, concealed, or obscured  
14 by the producing broker, and the following legend in at least 10-point type: "This is  
15 evidence of insurance procured and developed under the Alaska Surplus Lines Law,  
16 AS 21.34. It is not covered by the Alaska Insurance Guaranty Association Act,  
17 AS 21.80."

18 \* **Sec. 21.** AS 21.36.030(a) is amended to read:

19 (a) A person may not make, issue, circulate, broadcast, or have made, issued,  
20 circulated, or broadcast an estimate, circular, statement, illustration, comparison,  
21 **assertion**, or other written, **electronic**, or oral presentation that

22 (1) misrepresents the benefits, advantages, conditions, sponsorship,  
23 source, or terms of an insurance policy;

24 (2) misrepresents the dividends or share of the surplus to be received  
25 on an insurance policy;

26 (3) misrepresents an insurance policy as being a share or shares of  
27 stock;

28 (4) makes a false or misleading statement as to the dividends or shares  
29 of the surplus previously paid on an insurance policy;

30 (5) misrepresents or makes a misleading statement as to the financial  
31 condition of an insurer or as to the legal reserve system upon which a life insurer

1 operates;

2 (6) uses a name or title of an insurance policy or class of insurance  
3 policies misrepresenting its true nature;

4 (7) is a misrepresentation for the purpose of inducing, or that tends to  
5 induce the lapse, forfeiture, exchange, conversion, or surrender of an insurance policy;

6 (8) is a misrepresentation for the purpose of effecting or tending to  
7 effect a pledge or assignment of or loan against an insurance policy;

8 (9) appears to be an actual policy for a named individual when it is  
9 merely an advertisement;

10 (10) does not clearly designate the name of the insurer providing the  
11 coverage or about which the statements are made; or

12 (11) is in any other way misleading, false, or deceptive.

13 \* **Sec. 22.** AS 21.36.030(a) is amended to read:

14 (a) A person may not make, issue, circulate, broadcast, or have made, issued,  
15 circulated, or broadcast an estimate, circular, statement, illustration, comparison,  
16 assertion, or other written, electronic, or oral presentation that

17 (1) misrepresents the benefits, advantages, conditions, sponsorship,  
18 source, or terms of an insurance policy **or a health discount plan**;

19 (2) misrepresents the dividends or share of the surplus to be received  
20 on an insurance policy;

21 (3) misrepresents an insurance policy as being a share or shares of  
22 stock;

23 (4) makes a false or misleading statement as to the dividends or shares  
24 of the surplus previously paid on an insurance policy;

25 (5) misrepresents or makes a misleading statement as to the financial  
26 condition of an insurer or as to the legal reserve system upon which a life insurer  
27 operates;

28 (6) uses a name or title of an insurance policy or class of insurance  
29 policies misrepresenting its true nature;

30 (7) is a misrepresentation for the purpose of inducing, or that tends to  
31 induce the lapse, forfeiture, exchange, conversion, or surrender of an insurance policy;

1 (8) is a misrepresentation for the purpose of effecting or tending to  
2 effect a pledge or assignment of or loan against an insurance policy;

3 (9) appears to be an actual policy for a named individual when it is  
4 merely an advertisement;

5 (10) does not clearly designate the name of the insurer providing the  
6 coverage or about which the statements are made; [OR]

7 (11) is in any other way misleading, false, or deceptive;

8 **(12) misrepresents a health discount plan as a form or type of**  
9 **insurance;**

10 **(13) describes a health discount plan using common insurance**  
11 **terminology; or**

12 **(14) misrepresents that a health discount plan is underwritten by**  
13 **or associated with an insurer.**

14 \* **Sec. 23.** AS 21.36 is amended by adding a new section to read:

15 **Sec. 21.36.065. Limitation on owner controlled and contractor controlled**  
16 **insurance programs.** (a) An owner controlled insurance program or a contractor  
17 controlled insurance program is subject to both AS 21.39 and AS 21.42, must be  
18 approved by the director, and shall be allowed only for a major construction project.  
19 Owner controlled and contractor controlled insurance programs are limited to property  
20 insurance as defined in AS 21.12.060 and casualty insurance as defined in  
21 AS 21.12.070.

22 (b) In this section, an owner controlled or contractor controlled insured  
23 program does not include

24 (1) builder's risk or course of construction insurance;

25 (2) insurance relating to the transportation of cargo or other property;

26 (3) insurance covering one or more affiliates, subsidiaries, partners, or  
27 joint venture partners of a person; or

28 (4) insurance policies endorsed to name one or more persons as  
29 additional insureds.

30 (c) In this section,

31 (1) "contractor" means a person who meets the definition of

1 "contractor" in AS 08.18.171 and who undertakes the performance of a construction  
2 project for a project owner, its agent, or its representative;

3 (2) "contractor controlled insurance program" means an insurance  
4 program where one or more insurance policies are procured on behalf of a contractor,  
5 its agent, or its representative, by its insurance producer, as defined in AS 21.27.900,  
6 for the purpose of insuring the contractor and one or more of the following:

7 (A) the project owner;

8 (B) a subcontractor;

9 (C) an architect;

10 (D) an engineer; or

11 (E) a person performing professional services;

12 (3) "major construction project" means the process of constructing a  
13 structure, building, facility, or roadway or major renovation of more than 50 percent of  
14 an existing structure, building, facility, or roadway having a contract cost of more than  
15 \$50,000,000 of a definite term at a geographically defined project site;

16 (4) "owner controlled insurance program" means an insurance program  
17 where one or more insurance policies are procured on behalf of a project owner, its  
18 agent, or its representative, by its insurance producer, as defined in AS 21.27.900, for  
19 the purpose of insuring the project owner and one or more of the following:

20 (A) the contractor;

21 (B) a subcontractor;

22 (C) an architect;

23 (D) an engineer; or

24 (E) a person performing professional services;

25 (5) "project owner" means a person who, in the course of the person's  
26 business, engages the service of a contractor for the purpose of working on a  
27 construction project;

28 (6) "subcontractor" means a person to whom a contractor sublets all or  
29 part of a contractor's initial undertaking.

30 \* **Sec. 24.** AS 21.36 is amended by adding a new section to read:

31 **Sec. 21.36.155. Health discount plans.** (a) A person may not sell, market,

1 promote, advertise, or otherwise distribute a health discount plan unless

2 (1) each advertisement, policy, document, information, statement, or  
3 other communication regarding the health discount plan and the plan itself contain a  
4 statement, in bold and prominent type, that the health discount plan is not insurance;

5 (2) the discounts offered under the health discount plan are specifically  
6 authorized by a contract with each provider of the services or supplies listed in  
7 conjunction with the plan;

8 (3) the health discount plan states the name, address, and telephone  
9 number of the administrator of the plan;

10 (4) the person makes readily available to the consumer a complete,  
11 accurate, and up-to-date list of providers participating in the plan that offer discounted  
12 health care services or supplies in the consumer's local area and the discounts offered  
13 by the providers;

14 (5) the person provides the consumer the right to cancel the health  
15 discount plan within 30 days after purchase of the plan; and

16 (6) the person provides the consumer with a full refund of all payments  
17 made, except for a nominal processing fee, within 30 days after notification of  
18 cancellation of the plan under (5) of this subsection.

19 (b) The director may adopt regulations to implement this section and to  
20 establish additional requirements intended to prohibit unfair or deceptive practices  
21 relating to health discount plans.

22 \* **Sec. 25.** AS 21.36.190 is amended by adding a new subsection to read:

23 (f) Except as provided in AS 21.36.065, an insurer, whether authorized or  
24 unauthorized, may not underwrite an owner controlled insurance program or  
25 contractor controlled insurance program. In this subsection, "owner controlled  
26 insurance program" and "contractor controlled insurance program" have the meanings  
27 given in AS 21.36.065.

28 \* **Sec. 26.** AS 21.36.195 is amended to read:

29 **Sec. 21.36.195. Surplus lines brokers and insurance producers; prohibited**  
30 **acts.** A surplus lines broker or an insurance producer may not fail to provide evidence  
31 of insurance, [AFFIDAVITS,] filings, or reports, or fail to maintain the records, or fail

1 to pay the taxes and fees, required under AS 21.34.

2 \* **Sec. 27.** AS 21.51 is amended by adding a new section to read:

3 **Sec. 21.51.405. Rate requirements.** Rates charged for a health insurance  
4 policy may not be excessive, inadequate, or unfairly discriminatory.

5 \* **Sec. 28.** AS 21.55.500(16) is amended to read:

6 (16) "plan administrator" means an [THE] eligible entity **that is**  
7 **licensed as a third-party administrator under AS 21.27 and is** selected by the  
8 board and approved by the director to administer a state plan;

9 \* **Sec. 29.** AS 21.66.080(a) is amended to read:

10 (a) Every company, on or before March 1 of each year, shall furnish the  
11 director **or the director's designee** a sworn statement of assets and liabilities, and of  
12 all title premiums received by it during the preceding calendar year, setting out, among  
13 other things, the amounts that have been set aside and held by it in an account required  
14 under AS 21.18.073. The reporting format for a given year is the most recently  
15 approved National Association of Insurance Commissioners Annual Financial  
16 Statement blank form and instructions, supplemented for additional information as  
17 required by the director. The director may require the statement to be filed on  
18 electronic media. The statement must also show all unpaid losses and claims upon  
19 title insurance policies of which the title insurance company has received due notice in  
20 writing from or on behalf of the insured. With the filing of the statement, the title  
21 insurance company shall pay a filing fee set under AS 21.06.250.

22 \* **Sec. 30.** AS 21.66.085(b) is amended to read:

23 (b) A quarterly financial statement, if required, is due **45** [60] days after the  
24 end of the quarter to which it applies.

25 \* **Sec. 31.** AS 21.90.900(42) is amended to read:

26 (42) "third-party administrator" means a person who, for residents of  
27 this state, or for residents of another jurisdiction from a place of business in this state,  
28 performs administrative functions including claims administration and payment,  
29 marketing administrative functions, premium accounting, premium billing, coverage  
30 verification, underwriting authority, or certificate issuance in **connection with life**  
31 **insurance, annuities, health insurance, or the provision of coverage for the cost of**

1        **medical care** [REGARD TO LIFE INSURANCE, HEALTH INSURANCE, OR  
2        ANNUITIES];

3        \* **Sec. 32.** AS 21.90.900(43) is amended to read:

4                    (43) "transact," with respect to insurance **or the provision of coverage**  
5        **for medical care,** includes

6                    (A) solicitation and inducement;

7                    (B) preliminary negotiations;

8                    (C) effectuation of a contract of insurance **or the provision of**  
9        **coverage for medical care;**

10                    (D) transaction of matters subsequent to effectuation of the  
11        contract of insurance **or the provision of coverage for medical care** and  
12        arising out of it;

13        \* **Sec. 33.** AS 21.90.900 is amended by adding a new paragraph to read:

14                    (45) "health discount plan" means a card, program, device,  
15        arrangement, contract, or mechanism that purports to offer discounts or access to  
16        discounts on health care services or supplies and that is not insurance or that does not  
17        provide coverage for services or benefits regulated under AS 21.86 or AS 21.87.

18        \* **Sec. 34.** AS 21.24.040(b); AS 21.27.330(b), and 21.27.650(p) are repealed.

19        \* **Sec. 35.** The uncoded law of the State of Alaska is amended by adding a new section to  
20        read:

21                TRANSITION: REGULATIONS. The director of insurance may proceed to adopt  
22        regulations to implement the changes made by secs. 22, 24, and 33 of this Act. The  
23        regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
24        effective date of secs. 22, 24, and 33 of this Act.

25        \* **Sec. 36.** Sections 22, 24, and 33 of this Act take effect July 1, 2005.

26        \* **Sec. 37.** Except as provided in sec. 36 of this Act, this Act takes effect immediately under  
27        AS 01.10.070(c).