

CS FOR HOUSE BILL NO. 401(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:**Referred:****Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR****A BILL****FOR AN ACT ENTITLED**

1 **"An Act relating to insurance; relating to credit for reinsurance; relating to insurance**
2 **standard valuation; and providing for an effective date."**

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

4 * **Section 1.** AS 21.12.020(a) is amended to read:

5 (a) Credit for reinsurance transactions is [SHALL BE] allowed a domestic
6 ceding insurer as either an asset or a deduction from liability because [ON
7 ACCOUNT] of reinsurance ceded only when the reinsurer meets the requirements
8 of (1) - (6) this subsection. The director may, by regulation adopted under (m)(2)
9 of this section, specify additional requirements relating to, or setting out, the
10 valuation of assets or reserve credits, the amount and forms of security
11 supporting reinsurance arrangements described in (m)(2) of this section, and the
12 circumstances under which credit will be reduced or eliminated. Credit is
13 allowed under (1) - (3) of this subsection with respect to cessions of a kind or class
14 of business that the assuming insurer is licensed or permitted to write or assume in its

1 state of domicile or, in the case of a United States branch of an alien assuming insurer,
2 in the state through which it is entered and licensed to transact insurance or
3 reinsurance. Credit is allowed under (3) or (4) of this subsection only if the
4 applicable requirements in (b) of this section have been satisfied. Credit is
5 allowed when [AND ONLY IF] the reinsurance is ceded to an assuming insurer that

6 (1) [ASSUMING INSURER THAT] is licensed to transact insurance
7 or reinsurance in this state;

8 (2) [ASSUMING INSURER THAT] is accredited by the director as a
9 reinsurer in this state; an accredited reinsurer is one that

10 (A) files with the director evidence of submission to this
11 state's jurisdiction, submits to this state's authority to examine its books and
12 records [UNDER AS 21.06.120], is licensed to transact insurance or
13 reinsurance in at least one state that is accredited by the National Association
14 of Insurance Commissioners, or, in the case of a United States branch of an
15 alien admitted insurer, is entered through and licensed to transact insurance or
16 reinsurance in at least one state that is accredited by the National Association
17 of Insurance Commissioners;

18 (B) demonstrates to the satisfaction of the director that it
19 has adequate financial capacity to meet its reinsurance obligations and is
20 otherwise qualified to assume reinsurance from domestic insurers; an
21 assuming insurer is considered to meet the requirement at the time of
22 application if the assuming insurer maintains at least \$20,000,000 in
23 policyholder surplus and the assuming insurer's [WHOSE] accreditation has
24 not been denied by the director within 90 days after application to the director
25 [, OR MAINTAINS LESS THAN \$20,000,000 IN POLICYHOLDER
26 SURPLUS AND WHOSE APPLICATION FOR ACCREDITATION HAS
27 BEEN APPROVED BY THE DIRECTOR]; and

28 (C) files annually with the director a copy of the reinsurer's
29 annual [FINANCIAL] statement filed with the insurance supervisory official
30 [DEPARTMENT] of the reinsurer's state of domicile [OR STATE OF
31 ENTRY] and a copy of the reinsurer's most recent audited financial statement;

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

(4) [ASSUMING ALIEN INSURER THAT

(A)] maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of the assuming insurer's [ITS] United States domiciled ceding insurers, and their assigns and successors; credit for reinsurance under this paragraph shall be granted only if the following requirements are met [IN INTEREST, THAT CONFORMS TO THE FOLLOWING REQUIREMENTS]:

(A) [i] the trust and each amendment to the trust is [SHALL BE] established in a form approved by the insurance supervisory official of the state where the trust is domiciled or the insurance supervisory official of another state who, under the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust; the form of the trust and each trust amendment is [SHALL BE] filed with the insurance supervisory official of every state in which the beneficiaries of the trust are domiciled; the trust instrument provides [MUST PROVIDE] that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States; the trust vests [SHALL VEST] legal title to its assets in the trustees of the trust for its United States domiciled ceding insurers, their assigns, and successors in interest; the trust and the assuming insurer are subject to examination as determined by the director [, AND THE ASSUMING INSURER SHALL SUBMIT TO EXAMINATION OF ITS BOOKS AND RECORDS BY THE DIRECTOR AND BEAR THE

1 EXPENSE OF EXAMINATION]; the trust remains [MUST REMAIN] in
2 effect for so long as the assuming insurer has outstanding liabilities due under
3 the reinsurance agreements subject to the trust;

4 **(B)** [(ii)] on or before March 1 of each year, the trustees
5 [SHALL] report in writing to the director on the balance of the trust, [AND]
6 list the trust's investments at the end of the preceding year, and [SHALL]
7 certify the date of termination of the trust, if so planned, or certify that the trust
8 does not expire before the following December 31;

9 **(C)** [(iii)] in the case of a single assuming insurer, the trust
10 consists [SHALL CONSIST] of trust assets not less than the assuming
11 insurer's liabilities attributable to reinsurance ceded by the United States
12 domiciled ceding insurers and, in addition, except as provided in (D) of this
13 paragraph, the assuming insurer maintains [INCLUDE] a trust surplus of
14 not less than \$20,000,000 for the benefit of the United States domiciled ceding
15 insurers as additional security for the liabilities covered by the trust; the single
16 assuming insurer shall make available to the director an annual certification of
17 the insurer's solvency by an independent certified public accountant or an
18 accountant holding a substantially equivalent designation as determined by the
19 director; at any time after the assuming insurer permanently discontinues
20 underwriting new business secured by a trust for not less than three years,
21 the insurance supervisory official with principal regulatory oversight of
22 the trust may authorize a reduction in the required trustee surplus if,
23 based on an assessment of the risk, the insurance supervisory official finds
24 that the new required surplus level is adequate for the protection of
25 United States domiciled ceding insurers, policyholders, and claimants in
26 light of reasonably foreseeable adverse loss development; the risk
27 assessment may involve an actuarial review, including an independent
28 analysis of reserves and cash flows, and must consider all material risk
29 factors, including, when applicable, the lines of business involved, the
30 stability of the incurred loss estimates, and the effect of the surplus
31 requirements on the assuming insurer's liquidity or solvency; the

1 minimum required trustee surplus may not be reduced to an amount less
2 than 30 percent of the assuming insurer's liabilities attributable to
3 reinsurance ceded by United States domiciled ceding insurers covered by
4 the trust;

5 (D) [(iv)] in the case of a group, including incorporated and
6 individual unincorporated insurers,

7 (i) the trust consists [SHALL CONSIST] of, for
8 reinsurance ceded under the reinsurance agreements with an
9 inception, amendment, or renewal date on or after January 1, 1993,
10 a trustee account in an amount not less than the respective
11 insurers' several liabilities attributable to business ceded by United
12 States domiciled ceding insurers to any insurer of the group, for
13 reinsurance ceded under reinsurance agreements with an inception
14 date on or before December 31, 1992, and not amended or renewed
15 after that date, notwithstanding the other provisions of this section,
16 a trustee account not less than the respective insurers' several
17 insurance and reinsurance liabilities attributable to business
18 written in the United States, and, in addition to an applicable trust
19 described in this sub subparagraph, trust assets representing the
20 group's liabilities attributable to business ceded by United States
21 domiciled ceding insurers [AND, IN ADDITION,] include a trust
22 surplus not less than \$100,000,000 held jointly for the benefit of the
23 United States domiciled ceding insurers of any member of the group for
24 all years of account as additional security for the group's liabilities
25 covered by the trust; and

26 (ii) the incorporated members of the group are [MAY]
27 not [BE] engaged in any business other than underwriting as a member
28 of the group and are subject to the same level of solvency regulation
29 and control by the group's domiciliary regulator as [ARE] the
30 unincorporated members; within 90 days after the group's [ITS]
31 financial statements are due to be filed with the group's domiciliary

1 regulator, the group shall make available to the director an annual
2 certification of the solvency of each insurer by the group's domiciliary
3 regulator or, if the certification is unavailable, financial statements,
4 prepared by an independent certified public accountant, or an
5 accountant holding a substantially equivalent designation as determined
6 by the director, for each underwriter member of the group;

7 **(E) [(v)]** in the case of a group of incorporated insurers under
8 common administration [THAT COMPLIES WITH THE REPORTING
9 REQUIREMENTS CONTAINED IN (ii) OF THIS SUBPARAGRAPH,] that
10 has continuously transacted an insurance business outside the United States for
11 at least three years immediately before making application for accreditation [,
12 THAT SUBMITS TO THIS STATE'S AUTHORITY TO EXAMINE ITS
13 BOOKS AND RECORDS AND BEARS THE EXPENSE OF THE
14 EXAMINATION,] and that has aggregate policyholders' surplus of
15 \$10,000,000,000 **or more**, the trust **consists** [SHALL CONSIST] of trust
16 assets in an amount not less than the group's several liabilities attributable to
17 business ceded by United States domiciled ceding insurers to a member of the
18 group under reinsurance contracts issued in the name of the group; and the
19 group [SHALL]

20 **(i) maintains** [MAINTAIN] a joint trustee surplus, of
21 which \$100,000,000 **is** [SHALL BE] held jointly for the benefit of
22 United States domiciled ceding insurers of a member of the group as
23 additional security for the group's liabilities covered by the trust;

24 **(ii) not later than** [, AND, WITHIN] 90 days after **the**
25 **group's** [ITS] financial statements are due to be filed with the group's
26 domiciliary regulator, **ensures** each member of the group **makes**
27 [SHALL MAKE] available to the director an annual certification of the
28 underwriter member's solvency by the member's domiciliary regulator
29 and financial statement of each underwriter member prepared by **the**
30 **member's** [ITS] independent certified public accountant [,] or an
31 accountant holding a substantially equivalent designation as determined

by the director; and

(iii) submits to examination of its books and records by the director and bears the expense of the examination;

(F) the assuming insurer [(B)] reports annually to the director information substantially the same as that required to be reported on the National Association of Insurance Commissioners' annual statement form by licensed insurers [TO ENABLE THE DIRECTOR TO DETERMINE THE SUFFICIENCY OF THE TRUST FUND];

(5) is eligible for certification by the director as a reinsurer in this state if the assuming insurer secures its obligations under the following requirements:

(A) the assuming insurer must

(i) be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction;

(ii) maintain minimum capital and surplus, or its equivalent, in an amount set out in regulations adopted by the director;

(iii) maintain financial strength ratings from two or more rating agencies as required under regulations adopted by the director;

(iv) agree to submit to the jurisdiction of this state and agree to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States domiciled ceding insurers if the assuming insurer resists enforcement of a final United States judgment;

(v) agree to meet applicable information filing requirements as determined by the director, both with respect to an initial application for certification and on an ongoing basis; and

(vi) satisfy other requirements for certification as required by the director;

(B) in addition to satisfying the requirements under (A) of

1 this paragraph, an association, including an incorporated underwriter and
2 an individual unincorporated underwriter,

3 (i) shall satisfy the association's minimum capital
4 and surplus requirements through the capital and surplus
5 equivalents, net of liabilities, of the association and the association's
6 members, which must include a joint central fund that may be
7 applied to any unsatisfied obligation of the association or a member
8 of the association, in an amount determined by the director to
9 provide adequate protection;

10 (ii) may not engage in any business other than
11 underwriting as a member of the association and be subject to the
12 same level of regulation and solvency control by the association's
13 domiciliary regulator as are the unincorporated members; and

14 (iii) shall, not later than 90 days after the
15 association's financial statements are filed with the association's
16 domiciliary regulator, provide to the director an annual
17 certification by the association's domiciliary regulator of the
18 solvency of each underwriter member, or, if a certification is
19 unavailable, financial statements prepared by independent public
20 accountants of each underwriter member of the association;

21 (C) the director shall create and publish a list of qualified
22 jurisdictions under which an assuming insurer licensed and domiciled in a
23 qualifying jurisdiction is eligible to be considered for certification by the
24 director as a certified reinsurer, subject to the following provisions:

25 (i) to determine whether the domiciliary jurisdiction
26 of a an alien assuming insurer is eligible to be recognized as a
27 qualified jurisdiction, the director shall evaluate the
28 appropriateness and effectiveness of the reinsurance supervisory
29 system of the jurisdiction, both initially and on an ongoing basis,
30 and consider the rights, benefits, and the extent of reciprocal
31 recognition afforded by the jurisdiction to reinsurers licensed and

domiciled in the United States; a qualified jurisdiction shall agree to share information and cooperate with the director with respect to all certified reinsurers domiciled within that jurisdiction; the director may not recognize a jurisdiction as a qualified jurisdiction if the director determines that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards; the director may consider additional factors when making an eligibility determination under this subparagraph;

(ii) the director shall consider the list of qualified jurisdictions published through the committee process of the National Association of Insurance Commissioners; if the director approves as qualified a jurisdiction that does not appear on the list of qualified jurisdictions, the director shall provide thoroughly documented justification for the approval under criteria set out in regulations adopted by the director;

(iii) the director shall recognize a United States jurisdiction that meets the requirement for accreditation under the National Association of Insurance Commissioners financial standards and accreditation program as a qualified jurisdiction;

(iv) the director, in lieu of revocation, may suspend a reinsurer's certification indefinitely if the certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction;

(D) the director shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies considered acceptable under regulations adopted by the director;

(E) a certified reinsurer shall secure obligations assumed from United States domiciled ceding insurers under this subsection at a level consistent with the reinsurer's rating, as specified under regulations adopted by the director and subject to the following requirements:

(i) for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the director and consistent with (c) of this section or in a multibeneficiary trust under (4) of this subsection, except as otherwise provided in this paragraph;

(ii) if a certified reinsurer maintains a trust to secure fully the reinsurer's obligations subject to (4) of this subsection and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted under this subsection or comparable laws of other United States jurisdictions and for its obligations subject to (4) of this subsection; a certified reinsurer shall, as a condition of the grant of certification under this paragraph, bind itself, by the language of the trust and agreement with the insurance supervisory official with principal regulatory oversight of the trust account, to use the remaining surplus of a terminated trust account for a deficiency in any other trust account of the certified reinsurer;

(iii) the minimum trustee surplus requirements under (4) of this subsection are not applicable to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection, except that the multibeneficiary trust shall maintain a minimum trustee surplus of \$10,000,000;

(iv) if the obligations incurred by a certified reinsurer under this subsection are insufficiently secured, the director shall reduce the allowable credit by an amount proportionate to the deficiency and may impose further reductions

1 in allowable credit if the director finds that there is a material risk
2 that the certified reinsurer's obligations will not be paid in full
3 when due;

4 (v) for purposes of this subparagraph, a certified
5 reinsurer whose certification is terminated for any reason is
6 considered to be a certified reinsurer that is required to secure 100
7 percent of the reinsurer's obligations; however, if the director
8 continues to assign a higher rating as permitted under other
9 provisions of this section, the requirement to secure 100 percent of
10 the reinsurer's obligations does not apply to a certified reinsurer in
11 inactive status or to a reinsurer whose certification has been
12 suspended; in this sub subparagraph, "terminated" means
13 revoked, suspended, voluntarily surrendered, or in inactive status;

14 (F) if an applicant for certification is certified as a reinsurer
15 in a jurisdiction accredited by the National Association of Insurance
16 Commissioners, the director may defer to that jurisdiction's certification
17 and to the rating assigned to the applicant by the jurisdiction; the
18 assuming insurer shall be considered to be a certified reinsurer in this
19 state;

20 (G) a certified reinsurer that ceases to assume new business
21 in this state may request to maintain its certification in inactive status in
22 order to continue to qualify for a reduction in security for its in-force
23 business; an inactive certified reinsurer shall continue to comply with all
24 applicable requirements of this subsection, and the director shall assign a
25 rating that takes into account, if relevant, the reasons the reinsurer is not
26 assuming new business;

27 (6) [ASSUMING INSURER THAT] does not meet the requirements
28 of (1) - (5) [(1) - (4)] of this subsection, but only with respect to the insurance of risks
29 located in jurisdictions where the reinsurance is required by applicable law or
30 regulation of that jurisdiction.

31 * Sec. 2. AS 21.12.020(b) is amended to read:

(b) If the assuming insurer is not licensed, [OR] accredited, or certified to transact insurance or reinsurance in this state, the credit permitted under (a)(4) and (5) [BY (a)(1) - (4)] of this section is [MAY] not [BE] allowed unless the assuming insurer agrees in the reinsurance agreements

(1) that, in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of a court of competent jurisdiction in a [ANY] state of the United States, will comply with all requirements necessary to give the court jurisdiction and will abide by the final decision of the court or of an appellate court in the event of an appeal; [THIS PROVISION IS NOT INTENDED TO CONFLICT WITH OR OVERRIDE THE OBLIGATION OF THE PARTIES TO A REINSURANCE AGREEMENT TO ARBITRATE THEIR DISPUTES, IF SUCH AN OBLIGATION IS CREATED IN THE REINSURANCE AGREEMENT;] and

(2) to designate the director or an attorney resident in the United States as its true and lawful attorney upon whom may be served lawful process in an action, suit, or proceeding instituted by or on behalf of the ceding insurer; nothing in this subsection is intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes if such an obligation is created in the reinsurance agreement.

* Sec. 3. AS 21.12.020(c) is amended to read:

(c) An asset or a [A] reduction from liability, for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of (a), (b), and (i) - (l) [(a)] of this section, shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. In addition, the director may adopt by regulation under (m)(2) of this section specific additional requirements relating to the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described in (m)(2) of this section, and the circumstances under which credit will be reduced or eliminated. The reduction shall be equal to the amount of money held by or on behalf of the ceding insurer, including money held in trust for the ceding insurer, under a reinsurance contract with

1 the assuming insurer as security for the payment of obligations under it, if the security
2 is held in the United States subject to withdrawal solely by, and under the exclusive
3 control of, the ceding insurer, or, in the case of a trust, held in a qualified United States
4 financial institution. The security must be in the form of

5 (1) cash;
6 (2) securities listed by the Securities Valuation Office of the National
7 Association of Insurance Commissioners, including those exempted from filing as
8 defined by the purposes and procedures manual of the Securities Valuation

9 Office, and those that qualify as admitted assets under AS 21.21;

10 (3) clean, irrevocable, unconditional letters of credit that contain an
11 evergreen clause issued or confirmed by a qualified United States financial institution
12 not later than December 31 in the year for which filing is made, and in the possession
13 of, or in trust for, the ceding insurer on or before the filing date of the ceding insurer's
14 annual statement; letters of credit meeting applicable standards of issuer acceptability
15 as of the dates of their issuance or confirmation shall, notwithstanding the issuing or
16 confirming institution's subsequent failure to meet applicable standards of issuer
17 acceptability, continue to be acceptable as security until their expiration, extension,
18 renewal, modification, or amendment, whichever occurs first; in this paragraph,
19 "qualified United States financial institution" means an institution that

20 (A) is organized or, in the case of a United States office of a
21 foreign banking organization, is licensed under the laws of the United
22 States or a state of the United States;

23 (B) is regulated, supervised, and examined by United States
24 federal or state authorities having regulatory authority over banks and
25 trust companies; and

26 (C) has been determined by either the director or the
27 Securities Valuation Office of the National Association of Insurance
28 Commissioners to meet the standards of financial condition and standing
29 considered necessary and appropriate to regulate the quality of financial
30 institutions whose letters of credit are acceptable to the director; or

31 (4) other security acceptable to and approved in advance by the

1 director.

2 * **Sec. 4.** AS 21.12.020(i) is amended to read:

3 (i) In this section, **unless otherwise indicated,**

4 **(1) "qualified United States financial institution" means an**
institution that is

5 **(A) organized or, in the case of a United States branch or**
agency office of a foreign banking organization, licensed under the laws of
the United States or a state of the United States, and has been granted
authority to operate with fiduciary powers; and

6 **(B) regulated, supervised, and examined by United States**
federal or state authorities having regulatory authority over banks and
trust companies;

7 **(2) [A] "reinsurance transaction" means a transaction stemming from a**
8 contract by which the assuming insurer agrees to indemnify the ceding insurer in
9 whole or in part against liability or losses that the ceding insurer might incur under a
10 separate contract of insurance with its insured.

11 * **Sec. 5.** AS 21.12.020 is amended by adding new subsections to read:

12 (j) If an assuming insurer does not meet the requirements under this section,
13 the credit permitted under (a)(1), (2), or (3) of this section is not allowed unless the
14 assuming insurer agrees, in the trust agreements, to the following conditions:

15 (1) notwithstanding any other provision in the trust instrument, if the
16 trust fund is inadequate because it contains an amount less than the amount required
17 under (a)(4) or (5) of this section, or if the grantor of the trust is declared insolvent or
18 is placed into receivership, rehabilitation, liquidation, or similar proceedings under the
19 laws of the state or country of domicile, the trustee shall comply with an order of the
20 insurance supervisory official with regulatory oversight over the trust or with an order
21 of a court of competent jurisdiction directing the trustee to transfer to the insurance
22 supervisory official with regulatory oversight over the trust all of the assets of the trust
23 fund;

24 (2) the assets shall be distributed by, and all claims shall be filed with
25 and valued by, the insurance supervisory official with regulatory oversight over the

1 trust under the laws of the state in which the trust is domiciled that are applicable to
2 the liquidation of a domestic insurer;

3 (3) if the insurance supervisory official with regulatory oversight over
4 the trust determines that the assets or report of the assets of the trust fund are not
5 necessary to satisfy the claims of the United States domestic ceding insurers of the
6 grantor of the trust, the insurance supervisory official with regulatory oversight over
7 the trust shall return the assets or part of the assets to the trustee for distribution under
8 the trust agreement;

9 (4) the grantor of the trust shall waive any right otherwise available to
10 it under United States law that is inconsistent with this subsection.

11 (k) The director may suspend or revoke a reinsurer's accreditation or
12 certification under the following procedures if the accredited or certified reinsurer
13 ceases to meet the requirements for accreditation or certification:

14 (1) the director shall give the reinsurer notice and opportunity for a
15 hearing under AS 21.06.170 - 21.06.230; the suspension or revocation may not take
16 effect before the director issues an order on the hearing, unless

17 (A) the reinsurer waives the right to a hearing;

18 (B) the director's order is based on a regulatory action by the
19 reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of
20 the reinsurer's eligibility to transact insurance or reinsurance business in its
21 domiciliary jurisdiction or in the primary certifying state of the reinsurer under
22 (a)(5)(F) of this section; or

23 (C) the director finds that an emergency requires immediate
24 action and a court of competent jurisdiction has not stayed the director's action;

25 (2) while a reinsurer's accreditation or certification is suspended,
26 reinsurance contract issued or renewed by the reinsurer on or after the effective date of
27 the suspension does not qualify for credit, except to the extent that the reinsurer's
28 obligations under the contract are secured under (c) of this section; if a reinsurer's
29 accreditation or certification is revoked, no credit for reinsurance may be granted after
30 the effective date of the revocation except to the extent that the reinsurer's obligations
31 under the contract are secured under (a)(5)(E) or (c) of this section.

(l) A ceding insurer shall take steps to

(1) manage its reinsurance recoverables proportionate to its own book of business; a domestic ceding insurer shall notify the director not later than 30 days after the reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers exceeds 50 percent of the domestic ceding insurer's last reported surplus to policyholders or the domestic ceding insurer determines that reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers is likely to exceed that limit; the notification must demonstrate that the exposure is safely managed by the domestic ceding insurer; and

(2) diversify its reinsurance program; a domestic ceding insurer shall notify the director not later than 30 days after ceding to any single assuming insurer or group of affiliated assuming insurers more than 20 percent of the ceding insurer's gross written premium in the preceding calendar year or the domestic ceding insurer determines that the reinsurance ceded to any single assuming insurer or group of affiliated assuming insurers is likely to exceed that limit; the notification must demonstrate that the exposure is safely managed by the domestic ceding insurer.

(m) The director may adopt regulations

(1) to implement this section; and

(2) relating to reinsurance arrangements, subject to the following provisions:

(A) a regulation adopted under this paragraph may apply only to reinsurance relating to

- (i) a life insurance policy with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

(ii) a universal life insurance policy with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guaranteed period;

(iii) a variable annuity with guaranteed death or living benefits;

(iv) a long-term care insurance policy; or

(v) other life insurance, health insurance, and annuity

products for which the National Association of Insurance Commissioners adopts model regulatory requirements with respect to credit for reinsurance;

(B) a regulation adopted under (A)(i) or (ii) of this paragraph applies to a treaty containing a policy issued (i) on or after January 1, 2015, and (ii) before January 1, 2015, if the risk pertaining to the policy is ceded, in whole or in part, in connection with the treaty on or after January 1, 2015; in this subparagraph, "treaty" means a contract in which a reinsurance company agrees to accept and an insurance company agrees to cede all of a particular type of risk within a specific class of insurance policies;

(C) the director may adopt a regulation under this paragraph to require a ceding insurer, in calculating the amounts or forms of security required to be held under regulations adopted under the authority of this paragraph, to use the edition of the valuation manual adopted by the National Association of Insurance Commissioners in effect on the date on which the calculation is made, to the extent applicable;

(D) a regulation adopted under this paragraph does not apply to cessions to an assuming insurer that is certified in this state or meets the following criteria:

(i) maintains at least \$250,000,000 in capital and surplus as determined under the most recent edition of the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, including the effect of any permitted or prescribed practices; and

(ii) is licensed in not fewer than 26 states, or licensed in not fewer than 10 states and licensed or accredited in a total of not fewer than 35 states;

(E) nothing in this paragraph limits the director's authority to adopt regulations under (1) of this subsection.

* **Sec. 6.** AS 21.18.110(a) is amended to read:

(a) The director shall annually value, or cause to be valued, the reserve

liabilities (hereinafter called reserves) for all outstanding life insurance policies, [AND] annuity and pure endowment contracts, and deposit-type contracts of every life insurer doing business in this state issued before the operative date of the valuation manual described in AS 21.18.112 [, AND MAY CERTIFY THE AMOUNT OF THE RESERVES, SPECIFYING THE MORTALITY TABLE OR TABLES, RATE OR RATES OF INTEREST, AND METHODS (NET LEVEL PREMIUM METHOD OR OTHER) USED IN THE CALCULATION OF THE RESERVES]. In calculating the reserves for policies and contracts issued before the operative date of the valuation manual described in AS 21.18.112, the director may use group methods and approximate averages for fractions of a year or otherwise. For an alien insurer, the valuation shall be limited to the alien insurer's [ITS] insurance transactions in the United States. For the purpose of making the valuation, the director may employ a qualified [COMPETENT] actuary who shall be paid by the insurer for which the service is rendered. For a foreign or alien insurer, the director may accept, in lieu of the valuation of the reserves required of a foreign or alien insurer, a valuation made, or caused to be made, by the insurance supervisory official of a state or other jurisdiction if the valuation complies with the minimum standard provided in this section. This subsection provides for the minimum standard for the valuation of reserves for policies and contracts subject to this subsection and applies to a policy and contract issued before the operative date of the valuation manual described in AS 21.18.112 [AND IF THE OFFICIAL OF THE STATE OR JURISDICTION ACCEPTS AS SUFFICIENT AND VALID FOR ALL LEGAL PURPOSES THE CERTIFICATE OF VALUATION OF THE DIRECTOR WHEN THE CERTIFICATE STATES THE VALUATION WAS MADE IN A SPECIFIED MANNER IN WHICH THE AGGREGATE RESERVES WOULD BE AT LEAST AS LARGE AS IF THEY HAD BEEN COMPUTED IN THE MANNER PRESCRIBED BY THE LAW OF THAT STATE OR JURISDICTION]. An insurer that has [AT ANY TIME] adopted a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in this section may, with the approval of the director, adopt a lower standard of valuation, but not lower than the minimum provided in this section.

1 * **Sec. 7.** AS 21.18.110(b) is amended to read:

2 (b) This subsection applies to only those policies and contracts issued on or
3 after the operative date of AS 21.45.300 except as [OTHERWISE] provided in (c) -
4 (k) [(c)] of this section, [AND] (5) and (6) of this subsection for group annuity and
5 pure endowment contracts issued before that operative date, and AS 21.18.112(b):

6 (1) Except as [OTHERWISE] provided in (c) - (k) [(c)] of this section,
7 [AND] (5) and (6) of this subsection, and AS 21.18.112(b), the minimum standard
8 for the valuation of all these policies and contracts shall be the commissioners
9 [COMMISSIONER'S] reserve evaluation methods defined in (2)(A) and (B) [(2)], (4),
10 and (7) of this subsection, and AS 21.18.112(b), three and one-half percent interest, or
11 in the case of policies and contracts, other than annuity and pure endowment contracts,
12 issued on or after July 1, 1978, five and one-half percent interest for single premium
13 life insurance policies and four and one-half percent interest for all other policies, and
14 the following tables:

15 (A) for all ordinary policies of life insurance issued on the
16 standard basis, excluding disability and accidental death benefits in the policies
17 - the Commissioners [COMMISSIONER'S] 1958 Standard Ordinary
18 Mortality Table, for policies issued before the operative date of
19 AS 21.45.300(w), of the Standard Nonforfeiture Law for Life Insurance as
20 amended, except that, for a category of policies issued on female risks, all
21 modified net premiums and present values, referred to in (2) of this subsection
22 may be calculated according to an age not more than six years younger than
23 the actual age of the insured; and for policies issued on or after the operative
24 date of AS 21.45.300(w) of the Standard Nonforfeiture Law for Life Insurance
25 as amended

26 (i) the Commissioners [COMMISSIONER'S] 1980
27 Standard Ordinary Mortality Table; [, OR]

28 (ii) at the election of the insurer for any one or more
29 specified plans of life insurance, the Commissioners
30 [COMMISSIONER'S] 1980 Standard Ordinary Mortality Table with
31 10-year Select Mortality Factors; [,] or

(iii) any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation adopted [PROMULGATED] by the director for use in determining the minimum standard of valuation for the policies;

(B) for all industrial life insurance policies issued on the standard basis, excluding disability and accidental death benefits in the policies - the 1941 Standard Industrial Mortality Table for the policies issued before the operative date of AS 21.45.300(l), of the Standard Nonforfeiture Law for Life Insurance as amended, and for the policies issued on or after April 7, 1984, the Commissioners [COMMISSIONER'S] 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation adopted [PROMULGATED] by the director for use in determining the minimum standard of valuation for those [SUCH] policies;

(C) for individual annuity and pure endowment contracts, excluding disability and accidental death benefits in the policies - the 1937 Standard Annuity Mortality Table, or, at the option of the insurer, the Annuity Mortality Table for 1949, ultimate, or any modification of either of these tables approved by the director;

(D) for group annuity and pure endowment contracts, excluding disability and accidental death benefits in the policies - the Group Annuity Mortality Table for 1951, any modification of the table approved by the director, or, at the option of the insurer, any of the tables or modification of tables specified for individual annuity and pure endowment contracts;

(E) for total and permanent disability benefits in or supplementary to ordinary policies or contracts - the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit or any table of disablement and termination rates adopted after 1980 by the National Association of Insurance Commissioners that are approved by regulation adopted by the director for use in determining the minimum standard of

1 valuation for the policies; the table shall, for active lives, be combined with a
2 mortality table permitted for calculating the reserves for life insurance policies;

3 (F) for accidental death benefits in or supplementary to policies
4 - the 1959 Accidental Death Benefits Table or any accidental death benefits
5 table adopted after 1980 by the National Association of Insurance
6 Commissioners that is approved by regulation adopted by the director for use
7 in determining the minimum standard of valuation for the policies combined
8 with a mortality table permitted for calculating the reserves for life insurance
9 policies;

10 (G) for group life insurance, life insurance issued on the
11 substandard basis and other special benefits - tables approved by the director.

12 (2) Except as otherwise provided in (4) and (7) of this subsection,
13 reserves according to the commissioners [COMMISSIONER'S] reserve valuation
14 method, for the life insurance and endowment benefits of policies providing for a
15 uniform amount of insurance and requiring the payment of uniform premiums, shall be
16 the excess, if any, of the present value, at the date of valuation, of the future
17 guaranteed benefits provided for by the policies, over the then present value of any
18 future modified net premiums; the modified net premiums for the policy shall be the
19 uniform percentage of the respective contract premiums for the benefits that the
20 present value, at the date of issue of the policy, of all the modified net premiums shall
21 be equal to the sum of the then present value of the benefits provided for by the policy
22 and the excess of (A) over (B), as follows:

23 (A) a net level annual premium equal to the present value, at
24 the date of issue, of the benefits provided for after the first policy year, divided
25 by the present value, at the date of issue of an annuity of one a year payable on
26 the first and each subsequent anniversary of the policy on which a premium
27 falls due; however, the net level annual premium may not exceed the net level
28 annual premium on the 19-year premium whole life plan for insurance of the
29 same amount at an age one year higher than the age at issue of the policy;

30 (B) a net one-year term premium for the benefits provided for
31 in the first policy year; notwithstanding this paragraph, for a life insurance

policy issued on or after January 1, 1987, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess premium and that provides an endowment benefit or a cash surrender value or a combination of these in an amount greater than the excess premium, the reserve according to the **commissioners** [COMMISSIONER'S] reserve valuation method as of a policy anniversary occurring on or before the assumed ending date, except as otherwise provided in (4) of this subsection, shall be the greater of the reserve as of the policy anniversary calculated as described in **(A)** [(2)(A)] of this **paragraph** [SUBSECTION] and the reserve as of the policy anniversary; the reserve shall be calculated as described in **(A)** [(2)(A)] of this **paragraph** [SUBSECTION], except **that**

(i) the present value shall be reduced by 15 percent of the amount of the excess first year premium; [,]

(ii) all present values of benefits and premiums shall be determined without reference to premiums or benefits provided for by the policy after the assumed ending date; [,]

(iii) the policy shall be assumed to mature on the assumed ending date as an endowment; [,] and

(iv) the cash surrender value provided on the assumed date shall be considered as an endowment benefit; in making the comparison in this subparagraph, the mortality and interest bases stated in [PARAGRAPHS] (4) and (6) of this subsection and [SUBSECTION] (c) **of this section** shall be used; in this subparagraph, the assumed ending date is the first policy anniversary on which the sum of the endowment benefit and cash surrender value then available is greater than the excess premium;

(C) reserves according to the commissioners
[COMMISSIONER'S] reserve valuation method for

(i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums; [,]

(ii) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under 26 U.S.C. 408 (Internal Revenue Code), as amended: [,]

(iii) disability and accidental death benefits in all policies and contracts; [,]

(iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this paragraph [(2) OF THIS SUBSECTION], except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums. [,]

(3) Reserves for any category of policies, contracts, or benefits as established by the director, may be calculated at the option of the insurer according to standards that [WHICH] produce greater aggregate reserves for the category than those calculated according to the minimum standard provided in this section, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, may not be higher than the corresponding rate or rates of interest used in calculating nonforfeiture benefits provided for in the policy or contract.

(4) If, in any contract year, the gross premium charged by a life insurer on a policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve on the policy or contract but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for that policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract, or the reserve calculated by the method actually used for the

1 policy or contract but using the minimum valuation standards of mortality and rate of
2 interest and replacing the valuation net premium by the actual gross premium in each
3 contract year for which the valuation net premium exceeds the actual gross premium.
4 In this paragraph, the minimum valuation standards of mortality and rate of interest
5 are those standards referred to in (b) and (c) of this section. Notwithstanding this
6 paragraph, for a life insurance policy issued on or after January 1, 1987, for which the
7 gross premium in the first policy year exceeds that of the second year and for which
8 no comparable additional benefit is provided in the first year for the excess premium
9 and that provides an endowment benefit or a cash surrender value or a combination of
10 these in an amount greater than the excess premium, the provisions of this paragraph
11 shall be applied as if the method used in calculating the reserve for such a policy were
12 based on a net one-year term premium for the benefits provided for in the first policy
13 year. The minimum reserve at each policy anniversary of such a policy shall be the
14 greater of the minimum reserve calculated under (2)(B) of this subsection, and the
15 minimum reserve calculated under this paragraph.

16 (5) Except as provided in **(c) - (k) of this section** [(C) OF THIS
17 PARAGRAPH], the minimum standard for the valuation of all individual annuity and
18 pure endowment contracts issued on or after the operative date of this paragraph as set
19 out in (6) of this subsection and for all annuities and pure endowments purchased on
20 or after that date under group annuity and pure endowment contracts, shall be the
21 **commissioners** [COMMISSIONER'S] reserve valuation methods defined in (2) and
22 (7) of this subsection and the following tables and interest rates:

23 (A) for individual single premium immediate annuity contracts,
24 excluding any disability and accidental death benefits in **those** [SUCH]
25 contracts - the 1971 individual annuity mortality table or an individual annuity
26 mortality table, adopted after 1980 by the National Association of Insurance
27 Commissioners, that is approved by regulation adopted by the director for use
28 in determining the minimum standard of valuation for the contracts, or any
29 modification of these tables approved by the director and seven and one-half
30 percent interest;

31 (B) for individual annuity and pure endowment contracts, other

1 than single premium immediate annuity contracts, excluding any disability and
2 accidental death benefits in those [SUCH] contracts - the 1971 individual
3 annuity mortality table or an individual annuity mortality table, adopted after
4 1980 by the National Association of Insurance Commissioners, that is
5 approved by regulation adopted by the director for use in determining the
6 minimum standard of valuation for the contracts, or any modification of these
7 tables approved by the director and five and one-half percent interest for single
8 premium deferred annuity and pure endowment contracts and four and one-
9 half percent interest for all other comparable [SUCH] individual annuity and
10 pure endowment contracts;

11 (C) for all annuities and pure endowments purchased under
12 group annuity and pure endowment contracts, excluding any disability and
13 accidental death benefits purchased under such contracts - 1971 group annuity
14 mortality table or a group annuity mortality table, adopted after 1980 by the
15 National Association of Insurance Commissioners, that is approved by
16 regulation adopted by the director for use in determining the minimum
17 standard of valuation for the annuities and pure endowments, or any
18 modification of these tables approved by the director, and seven and one-half
19 percent interest.

20 (6) After July 1, 1978, an insurer may file with the director a written
21 notice of its election to comply with the provisions of (5) of this subsection after a
22 specified date before January 1, 1979, which shall be the operative date of that
23 requirement for the insurer; however, an insurer may elect a different operative date
24 for individual annuity and pure endowment contracts from that elected for group
25 annuity and pure endowment contracts. If an insurer makes no election, the operative
26 date of (5) of this subsection for the insurer is January 1, 1979.

27 (7) This paragraph applies to all annuity and pure endowment contracts
28 other than group annuity and pure endowment contracts purchased under a retirement
29 plan or plan of deferred compensation, established or maintained by an employer
30 (including a partnership or sole proprietorship) or by an employee organization, or by
31 both, other than a plan providing individual retirement annuities under 26 U.S.C. 408

(Internal Revenue Code), as amended. Reserves according to the **commissioners** [COMMISSIONER'S] annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in those contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by those contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of **that** [SUCH] contract, that become payable before the end of that respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in **those** [SUCH] contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of those contracts to determine nonforfeiture values.

* **Sec. 8.** AS 21.18.110(f) is amended to read:

(f) The weighting factors referred to in (c) of this section are as follows:

(1) weighting factors for life insurance:

Guarantee

Duration:	Weighting
-----------	-----------

Years	Factors
-------	---------

10 or less	.50
------------	-----

more than 10, but not more than 20;	.45
-------------------------------------	-----

more than 20;	.35
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for life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guarantee in the policy or under an option to convert to a plan of life insurance with a premium rate or nonforfeiture value or both **that** [WHICH] are guaranteed in the original policy;

(2) notwithstanding (3) of this subsection, the weighting factor for a single premium immediate annuity and for an annuity benefit involving **a** [IN] life contingency arising from another annuity with a cash settlement option and a guaranteed interest contract with a cash settlement option - .80;

(3) for annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Weighting Factor

Duration: _____ for Plan Type _____

Years

Weighting Factor

for Plan Type

A B C

5 or less;

A B C

.80 .60 .50

more than 5, but not

more than 10;

more than 10, but no

more than 20;

more than 20;

in fund basis, the weighting factors shown in (3) of this subsection are increased by .15 for plan type A, .25 for plan type B, and .05 for plan type C;

(5) for annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, that [WHICH] do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis that [WHICH] do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the weighting factors shown in (3) of this subsection or derived in (4) of this subsection are increased by .05.

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

(j) The reference interest rates referred to in **(d) and (e)** [(c)] of this section are as follows:

(1) for life insurance, the lesser of the average interest rate for a period of 36 months and the average interest rate for a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(2) for a single premium immediate annuity and for an annuity benefit

1 involving a life contingency arising from another annuity with a cash settlement
2 option and a guaranteed interest contract with a cash settlement option, the average
3 interest rate for a period of 12 months, ending on June 30 of the calendar year of issue
4 or year of purchase, of Moody's Corporate Bond Yield Average - Monthly Average
5 Corporates, as published by Moody's Investors Service, Inc.;

6 (3) for other annuities with cash settlement options and guaranteed
7 interest contracts with cash settlement options, valued on a year of issue basis, except
8 as provided in (2) of this subsection, with a guarantee duration in excess of 10 years,
9 the lesser of the average interest rate for a period of 36 months and the average interest
10 rate for a period of 12 months, ending on June 30 of the calendar year of issue or
11 purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates,
12 as published by Moody's Investors Service, Inc.;

13 (4) for other annuities with cash settlement options and guaranteed
14 interest contracts with cash settlement options, valued on a year of issue basis, except
15 as provided in (2) of this subsection, with a guarantee duration of 10 years or less, the
16 average interest rate for a period of 12 months, ending on June 30 of the calendar year
17 of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average
18 Corporates, as published by Moody's Investors Service, Inc.;

19 (5) for other annuities with no cash settlement options and for
20 guaranteed interest contracts with no cash settlement options, the average interest rate
21 for a period of 12 months, ending on June 30 of the calendar year of issue or purchase,
22 of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as
23 published by Moody's Investors Service, Inc.;

24 (6) for other annuities with cash settlement options and guaranteed
25 interest contracts with cash settlement options, valued on a change in fund basis,
26 except as provided in (2) of this subsection, the average interest rate for a period of 12
27 months, ending on June 30 of the calendar year of the change in the fund, of Moody's
28 Corporate Bond Yield Average - Monthly Average Corporates, as published by
29 Moody's Investors Service, Inc.

30 * **Sec. 10. AS 21.18.110(q)** is amended to read:

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

(1) is not liable for damages to a person, other than the **insurer** [INSURANCE COMPANY] and the director, for an act, error, omission, decision, or conduct with respect to the actuary's opinion except in a case of fraud or wilful misconduct;

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

(3) shall prepare a memorandum, in form and substance acceptable to the director, to support the actuarial opinion.

* **Sec. 11.** AS 21.18.110(s) is amended to read:

(s) A memorandum in support of an actuarial opinion and other supporting material provided by an insurer to the director is confidential and may not be made public by the director or another person and is not subject to a civil subpoena, except for the purpose of defending an action seeking damages from a person because [BY REASON] of an action required by this section. The memorandum or other material may be released by the director with the written consent of the insurer or to the American Academy of Actuaries upon a request stating that the memorandum or other material is required for the purpose of a disciplinary proceeding and setting out procedures satisfactory to the director for preserving the confidentiality of the memorandum or other material. Once a portion of the memorandum or other material is cited by the insurer in its marketing, is cited before a governmental agency other than a state insurance department, or is released by the insurer [COMPANY] to the news media, the remainder of the confidential memorandum or other material is no longer confidential.

* **Sec. 12.** AS 21.18.110(t) is amended to read:

(t) An insurer's aggregate reserves for

(1) all life insurance policies, excluding disability and accidental death benefits, issued on or after July 1, 1992, may not be less than the aggregate reserves calculated under (b)(2), (4), (7), and (l) of this section, and the mortality table and rates of interest used in calculating nonforfeiture benefits for the policies; and

(2) all policies, contracts, and benefits may not be less than the aggregate reserves determined by an appointed [A QUALIFIED] actuary to be necessary to render the opinion required under (m) of this section.

1 * **Sec. 13.** AS 21.18.110 is amended by adding a new subsection to read:

2 (v) In this section, unless the context requires otherwise, "insurer" means an
3 entity that

4 (1) has written, issued, or reinsured life insurance contracts, accident
5 and health insurance contracts, or deposit-type contracts in this state and has at least
6 one of those policies in force or claim; or

7 (2) has written, issued, or reinsured life insurance contracts in any state
8 and is required to hold a certificate of authority to write life insurance, accident and
9 health insurance, or deposit-type contracts in this state.

10 * **Sec. 14.** AS 21.18 is amended by adding a new section to read:

11 **Sec. 21.18.112. Standard valuation for policies and contracts issued on or**
12 **after the operative date of the valuation manual.** (a) The director shall annually
13 value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all
14 outstanding life insurance contracts, annuity and pure endowment contracts, accident
15 and health contracts, and deposit-type contracts of every insurer issued on or after the
16 operative date of the valuation manual. In lieu of the valuation of the reserves required
17 of a foreign or alien insurer, the director may accept a valuation made, or caused to be
18 made, by the insurance supervisory official of any state or other jurisdiction when the
19 valuation complies with the minimum standard provided in this section.

20 (b) For accident and health insurance contracts issued on or after the operative
21 date of the valuation manual, the standard described in the valuation manual is the
22 minimum standard of valuation required under (a) of this section. For accident and
23 health insurance contracts issued before the operative date of the valuation manual, the
24 minimum standard of valuation is the standard required under AS 21.18.080 -
25 21.18.086.

26 (c) Every insurer with outstanding life insurance contracts, accident and health
27 insurance contracts, or deposit-type contracts in the state and subject to regulation by
28 the director shall annually submit to the director an opinion of the appointed actuary as
29 to whether the reserves and related actuarial items held in support of a policy or
30 contract are computed appropriately, are based on assumptions that satisfy contractual
31 provisions, are consistent with prior reported amounts, and comply with the applicable

laws of the state. The valuation manual must prescribe the specifics of this opinion, including any items considered to be necessary to its scope, as follows:

(1) the actuarial opinion must

(A) be in form and substance as specified in the valuation manual and acceptable to the director;

(B) be submitted with the annual statement reflecting the valuation of the reserve liabilities on or after the operative date of the valuation manual;

(C) apply to policies and contracts subject to this section, plus other actuarial liabilities specified in the valuation manual;

(D) be based on standards adopted by the Actuarial Standards Board or its successor and on additional standards prescribed in the valuation manual; and

(E) include, unless exempted in the valuation manual, an assessment of whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by an insurer with respect to the reserves and related actuarial items, including investment earnings on the assets and considerations anticipated to be received and retained under policies and contracts, adequately provide for an insurer's obligations under policies or contracts, including the benefits under and expenses associated with the policies or contracts;

(2) in the case of an actuarial opinion submitted by a foreign or alien insurer, the director may accept an opinion filed by the insurer with the insurance supervisory official of another state that is accredited by the National Association of Insurance Commissioners if the director determines that the opinion meets the requirements applicable to an insurer domiciled in the state;

(3) an appointed actuary who submits an opinion under this subsection

(A) is not liable for damages to a person, other than the insurer and the director, for an act, an error, an omission, a decision, or conduct with respect to the appointed actuary's opinion, except in the case of fraud or wilful

1 misconduct;

2 (B) is subject to disciplinary action by the director against the
3 appointed actuary or the insurer; and

4 (C) shall prepare a memorandum, in form and substance
5 acceptable to the director, to support the actuarial opinion;

6 (4) if an insurer fails to provide a supporting memorandum as
7 requested by the director within a period specified in the valuation manual or the
8 director determines that the supporting memorandum fails to meet the standards
9 adopted by the valuation manual or is otherwise unacceptable to the director, the
10 director may engage a qualified actuary, at the expense of the insurer, to review the
11 opinion and the basis for the opinion and to prepare a supporting memorandum as
12 required under (c)(3)(C) of this subsection.

13 (d) Except as provided under (4) or (6) of this subsection, for policies and
14 contracts issued on or after the operative date of the valuation manual, the standard
15 prescribed in the valuation manual is the minimum standard of valuation required
16 under (a) of this section, as follows:

17 (1) the operative date of the valuation manual is January 1 following
18 the effective date of this section;

19 (2) unless a change in the valuation manual specifies a later effective
20 date, changes to the valuation manual are effective on January 1 following the date
21 when the change to the valuation manual has been adopted by the National
22 Association of Insurance Commissioners by an affirmative vote representing

23 (A) at least three-fourths of the members of the National
24 Association of Insurance Commissioners voting, but not less than a majority of
25 the total membership; and

26 (B) members of the National Association of Insurance
27 Commissioners representing jurisdictions totaling greater than 75 percent of
28 the direct premiums written as reported in the following annual statements
29 most recently available before the vote in this paragraph: life, accident and
30 health annual statements, health annual statements, or fraternal annual
31 statements;

(3) the valuation manual must specify all of the following:

(A) minimum valuation standards for and definitions of the policies or contracts subject to (a) of this section; the minimum valuation standards are

- (i) the commissioners reserve valuation method for life insurance policies and contracts, other than annuity contracts, subject to (a) of this section;

(ii) the commissioners annuity reserve valuation method for annuity contracts subject to (a) of this section; and

(iii) minimum reserves for all other policies or contracts subject to (a) of this section;

(B) which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in (e) of this section and the minimum valuation standards consistent with those requirements;

(C) for policies and contracts subject to a principle-based valuation under (e) of this section,

(i) requirements for the format of reports to the director under (e)(5)(C) of this section that include information necessary to determine whether the valuation is appropriate and in compliance with this section;

(ii) assumptions for risks over which the insurer does not have significant control or influence;

(iii) procedures for corporate governance and oversight of the actuarial function and a process for appropriate waiver or modification of the procedures;

(D) for policies and contracts not subject to a principle-based valuation under (e) of this section, the minimum valuation standard

- (i) must be consistent with the minimum standard of valuation in AS 21.18.110; or

(ii) if there is no applicable minimum standard in

1 AS 21.18.110, must develop reserves that quantify the benefits,
2 guarantees, and funding associated with the contracts and their risks at
3 a level of conservatism that reflects conditions that include unfavorable
4 events that have a reasonable probability of occurring;

5 (E) other requirements, including those relating to reserve
6 methods, models for measuring risk, generation of economic scenarios,
7 assumptions, margins, use of insurer experience, risk measurement, disclosure,
8 certifications, reports, actuarial opinions and memorandums, transition rules
9 and internal controls; and

10 (F) the data and form of the data required under (f) of this
11 section, directions for submitting the data, and other requirements, including
12 data analyses and reporting of analyses;

13 (4) in the absence of a specific valuation requirement or if the director
14 determines that a specific valuation requirement in the valuation manual is not in
15 compliance with this section, the insurer shall, with respect to those requirements,
16 comply with minimum valuation standards in AS 21.18.110;

17 (5) the director may engage a qualified actuary, at the expense of the
18 insurer, to perform an actuarial examination of the insurer, to determine the
19 appropriateness of a reserve assumption or method used by the insurer, or to review
20 and determine an insurer's compliance with a requirement of this section; the director
21 may rely on the opinion of a qualified actuary engaged by the director of another state,
22 district, or territory of the United States regarding provisions contained in this section;
23 in this paragraph, "engage" includes employ and contract;

24 (6) the director may require an insurer to change an assumption or
25 method if the director determines the change is necessary to comply with the
26 requirements of the valuation manual or this section, and the insurer shall adjust the
27 reserves as required by the director.

28 (e) An insurer shall establish reserves using a principle-based valuation that
29 meets the following conditions for policies or contracts as specified in the valuation
30 manual:

31 (1) quantify the benefits, guarantees, and funding associated with the

1 contracts and their risks at a level of conservatism that reflects conditions that include
2 unfavorable events that have a reasonable probability of occurring during the lifetime
3 of the contracts and for policies or contracts with significant tail risk, that reflect
4 conditions appropriately adverse to quantify the tail risk;

5 (2) incorporate assumptions, risk analysis methods, and financial
6 models and management techniques that are consistent with, but not necessarily
7 identical to, those used in the insurer's overall risk assessment process while
8 recognizing potential differences in financial reporting structures and prescribed
9 assumptions or methods;

10 (3) incorporate assumptions that are derived in one of the following
11 manners:

12 (A) the assumptions are prescribed in the valuation manual;

13 (B) for assumptions that are not prescribed, the assumptions
14 shall be established using the insurer's available experience, to the extent it is
15 relevant and statistically credible; to the extent that data is not available,
16 relevant, or statistically credible, the assumptions shall be established using
17 other relevant or statistically credible experience;

18 (4) provide margins for uncertainty, including adverse deviation and
19 estimation error, so that the greater the uncertainty the larger the margin and resulting
20 reserve;

21 (5) for an insurer using a principle-based valuation for one or more
22 policies or contracts subject to this subsection as specified in the valuation manual,

23 (A) establish procedures for corporate governance and
24 oversight of the actuarial valuation function consistent with those described in
25 the valuation manual;

26 (B) provide to the director an annual certification of the
27 effectiveness of the internal controls with respect to the principle-based
28 valuation; the controls shall be designed to ensure that all material risks
29 inherent in the liabilities and associated assets subject to the valuation are
30 included in the valuation and that valuations are made in accordance with the
31 valuation manual; the certification shall be based on the controls in place as of

1 the end of the preceding calendar year;

2 (C) develop and file with the director upon request a principle-
3 based valuation report that complies with standards prescribed in the valuation
4 manual;

5 (6) a principle-based valuation may include a prescribed formulaic
6 reserve component.

7 (f) An insurer shall submit mortality, morbidity, policyholder behavior, or
8 expense experience and other data as prescribed in the valuation manual.

9 (g) The use of information in this section is subject to the following
10 provisions:

11 (1) except as provided in this subsection, an insurer's confidential
12 information is not a public record under AS 40.25.100 - 40.25.295, except that, the
13 director may use the confidential information in any regulatory or legal action brought
14 against the insurer as a part of the director's official duties;

15 (2) the director or another person who received confidential
16 information while acting under the authority of the director is not permitted or
17 required to testify in any private civil action concerning the confidential information;

18 (3) to assist in the performance of the director's duties, the director
19 may share confidential information

20 (A) with other state, federal, and international regulatory
21 agencies and with the National Association of Insurance Commissioners and
22 its affiliates and subsidiaries; and

23 (B) in the case of confidential information specified in (i)(1)(A)
24 and (4) of this section, with the Actuarial Board for Counseling and Discipline
25 or its successor upon request stating that the confidential information is
26 required for the purpose of professional disciplinary proceedings and with
27 state, federal, and international law enforcement officials;

28 (C) under (A) and (B) of this paragraph only if the recipient
29 agrees and has the legal authority to agree to maintain the confidentiality and
30 privileged status of the documents, materials, data, and other information in the
31 same manner and to the same extent required for the director;

(4) the director may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information from the National Association of Insurance Commissioners and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that the document material, data, or information is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, data, or other information;

(5) the director may enter into agreements governing the sharing and use of information consistent with this section;

(6) a disclosure to the director under this section or sharing confidential information as authorized in (3) of this subsection does not constitute a waiver of a claim of confidentiality.

(h) Notwithstanding (g) of this section, confidential information specified in (i)(1)(A) and (D) of this section

(1) may be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under (c) of this section or principle-based valuation report developed under (e)(5)(C) of this section because of an action required by this section or by regulations adopted under this section;

(2) may otherwise be released by the director with the written consent of the insurer; and

(3) is not confidential after any portion of a memorandum in support of an opinion submitted under (c) of this section or a principle-based valuation report developed under (e)(5)(C) of this section is cited by the insurer in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the insurer to the news media.

(i) In this section,

(1) "confidential information" means

(A) a memorandum in support of an opinion submitted under (c) of this section and documents, materials, and other information, including working papers and copies of them, created, produced, or obtained by or disclosed to the director or another person in connection with the memorandum;

(B) documents, materials, and other information, including working papers and copies of them, created, produced, or obtained by or disclosed to the director or another person in the course of an examination made under (d)(5) of this section; however, if an examination report or other material prepared in connection with an examination made under AS 21.06.120 - 21.06.150 is not held as private and confidential information under AS 21.06.120 - 21.06.150, an examination report or other material prepared in connection with an examination made under (d)(5) of this section is not confidential information to the same extent as if the examination report or other material had been prepared under AS 21.06.120 - 21.06.150;

(C) reports, documents, materials, and other information developed by an insurer in support of or in connection with an annual certification by the insurer under (e)(5)(B) of this section evaluating the effectiveness of the insurer's internal controls with respect to a principle-based valuation and other documents, materials, and other information, including working papers and copies of them, created, produced, or obtained by or disclosed to the director or another person in connection with the reports, documents, materials, and other information;

(D) a principle-based valuation report developed under (e)(5)(C) of this section and other documents, materials, and other information, including working papers and copies of them, created, produced, or obtained by or disclosed to the director or another person in connection with the report; and

(E) documents, materials, data, and other information submitted by an insurer under (f) of this section, known as experience data and experience materials, other documents, materials, data, and other information,

1 including working papers and copies of them, created or produced in
2 connection with the experience data, or documents, materials, data, or other
3 information that includes any potentially insurer-identifying or personally
4 identifiable information that is provided to or obtained by the director together
5 with experience data, experience materials, and other documents, materials,
6 data, and other information, including working papers and copies of them,
7 created, produced, or obtained by or disclosed to the director or another person
8 in connection with the experience materials;

9 (2) "law enforcement agency," "National Association of Insurance
10 Commissioners," and "regulatory agency," includes an employee, agent, consultant, or
11 contractor of the law enforcement agency, National Association of Insurance
12 Commissioners, or regulatory agency.

13 * **Sec. 15.** AS 21.18.900 is amended by adding new paragraphs to read:

14 (8) "accident and health insurance" means a contract that incorporates
15 morbidity risk and provides protection against economic loss resulting from accident,
16 sickness, or a medical condition or a contract as may be specified in the valuation
17 manual;

18 (9) "appointed actuary" means a qualified actuary who is appointed in
19 accordance with the valuation manual to prepare the actuarial opinion required in
20 AS 21.18.112;

21 (10) "deposit-type contract" means a contract that does not incorporate
22 mortality or morbidity risks or a contract specified in the valuation manual;

23 (11) "insurer" means an entity that has written, issued, or reinsured life
24 insurance contracts, accident and health insurance contracts, or deposit-type contracts
25 in

26 (A) this state and has at least one of those policies in force or
27 on claim; or

28 (B) another state and is required to hold a certificate of
29 authority to write life insurance, accident and health insurance, or deposit type
30 contracts in this state;

31 (12) "life insurance" means a contract that incorporates mortality risk,

1 including an annuity and pure endowment contract, or a contract specified in the
2 valuation manual;

3 (13) "policyholder behavior" means an action of a policyholder,
4 contract holder, or another person with the right to elect options;

5 (14) "principle-based valuation" means a reserve valuation that uses
6 one or more methods or one or more assumptions determined by the insurer under
7 AS 21.18.112(e), as specified in the valuation manual;

8 (15) "qualified actuary" means an individual who is qualified to sign
9 the applicable statement of actuarial opinion in accordance with the qualification
10 standards of the American Academy of Actuaries and who meets the requirements
11 specified in the valuation manual;

12 (16) "tail risk" means a risk that occurs either where the frequency of
13 low probability events is higher than expected under a normal probability distribution
14 or when there are observed events of very significant size or magnitude;

15 (17) "valuation manual" means the manual of valuation instructions
16 adopted by the National Association of Insurance Commissioners as specified in
17 AS 21.18.112(d)(1)(A).

18 * **Sec. 16.** AS 21.45.300(t) is amended to read:

19 (t) The adjusted premiums and present values for a policy of ordinary
20 insurance referred to in this section shall be calculated on the basis of the
21 **Commissioners** [COMMISSIONER'S] 1980 Standard Ordinary Mortality Table or, at
22 the election of the insurer for any one or more specified plans of life insurance, the
23 Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select
24 Mortality Factors. The adjusted premiums and present values for a policy of industrial
25 insurance shall be calculated on the basis of the **Commissioners**
26 [COMMISSIONER'S] 1961 Standard Industrial Mortality Table. The adjusted
27 premiums and present values for a policy issued in a particular calendar year shall be
28 calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate
29 as defined in this subsection for policies issued in that calendar year. **However,**
30 [PROVIDED, HOWEVER, THAT]

31 (1) at the option of the insurer, calculations for all policies issued in a

1 particular calendar year may be made on the basis of a rate of interest not exceeding
2 the nonforfeiture interest rate, as defined in this subsection, for policies issued in the
3 immediately preceding calendar year;

4 (2) under a paid-up nonforfeiture benefit, including a paid-up dividend
5 addition, a cash surrender value available, shall be calculated on the basis of the
6 mortality table and rate of interest used in determining the amount of the paid-up
7 nonforfeiture benefit and paid-up dividend additions, if any;

8 (3) an insurer may calculate the amount of a guaranteed paid-up
9 nonforfeiture benefit, including any paid-up addition under the policy, on the basis of
10 an interest rate not [NO] less than that specified in the policy for calculating cash
11 surrender values;

12 (4) in calculating the present value of paid-up term insurance with
13 accompanying pure endowment, if any, offered as nonforfeiture benefit, the rates of
14 mortality assumed may be not more than those shown in the **Commissioners**
15 [COMMISSIONER'S] Extended Term Insurance Table for policies of ordinary
16 insurance and not more than the **Commissioners** [COMMISSIONER'S] 1961
17 Industrial Extended Term Insurance Table for policies of industrial insurance;

18 (5) for insurance issued on a substandard basis, the calculations of
19 adjusted premiums and present values may be based on appropriate modifications
20 mentioned above;

21 (6) **for policies issued before the operative date of the valuation**
22 **manual, a Commissioners Standard Ordinary Mortality Table** [AN ORDINARY
23 MORTALITY TABLE], adopted after 1980 by the National Association of Insurance
24 Commissioners, that is approved by regulation adopted by the director for use in
25 determining the minimum nonforfeiture standard may be substituted for the
26 **Commissioners** [COMMISSIONER'S] 1980 Standard Ordinary Mortality Table with
27 or without Ten-Year Select Mortality Factors or for the **Commissioners**
28 [COMMISSIONER'S] 1980 Extended Term Insurance Table; **for policies issued on**
29 **or after the operative date of the valuation manual, the valuation manual must**
30 **provide the Commissioners Standard Ordinary Mortality Table for use in**
31 **determining the minimum nonforfeiture standard that may be substituted for the**

1 Commissioners 1980 Standard Ordinary Mortality Table with or without the
2 Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended
3 Term Insurance Table; if the director approves by regulation a Commissioners
4 Standard Ordinary Mortality Table adopted by the National Association of
5 Insurance Commissioners for use in determining the minimum nonforfeiture
6 standard for policies issued on or after the operative date of the valuation
7 manual, that minimum nonforfeiture standard supersedes the minimum
8 nonforfeiture provided by the valuation manual;

9 (7) for policies issued before the operative date of the valuation
10 manual, a Commissioners Standard Industrial Mortality Table [AN
11 INDUSTRIAL MORTALITY TABLE], adopted after 1980 by the National
12 Association of Insurance Commissioners, that is approved by regulation adopted by
13 the director for use in determining the minimum nonforfeiture standard may be
14 substituted for the Commissioners [COMMISSIONER'S] 1961 Standard Industrial
15 Mortality Table or the Commissioners [COMMISSIONER'S] 1961 Industrial
16 Extended Term Insurance Table; for policies issued on or after the operative date of
17 the valuation manual, the valuation manual must provide the Commissioners
18 Standard Ordinary Mortality Table for use in determining the minimum
19 nonforfeiture standard that may be substituted for the Commissioners 1961
20 Standard Industrial Mortality Table or the Commissioners 1961 Extended Term
21 Insurance Table; if the director approves by regulation a Commissioners
22 Standard Industrial Mortality Table adopted by the National Association of
23 Insurance Commissioners for use in determining the minimum nonforfeiture
24 standard for policies issued on or after the operative date of the valuation
25 manual, that minimum nonforfeiture standard supersedes the minimum
26 nonforfeiture provided by the valuation manual. [THIS SUBSECTION APPLIES
27 TO ALL POLICIES ISSUED AFTER THE OPERATIVE DATE OF (w) OF THIS
28 SECTION.]

29 * Sec. 17. AS 21.45.300(u) is amended to read:

30 (u) For a policy issued before the operative date of the valuation manual,
31 the [THE] nonforfeiture annual interest rate [A YEAR] for a policy issued in a

1 particular calendar year shall be equal to 125 percent of the calendar year statutory
2 valuation interest rate for the policy as defined in the Standard Valuation Law,
3 rounded to the nearer one quarter of one percent, if the nonforfeiture interest rate is
4 not less than four percent; for a policy issued on or after the operative date of the
5 valuation manual, the nonforfeiture annual interest rate for a policy issued in a
6 particular calendar year is provided by the valuation manual. [THIS
7 SUBSECTION APPLIES TO ALL POLICIES ISSUED AFTER THE OPERATIVE
8 DATE OF (w) OF THIS SECTION.]

9 * **Sec. 18.** AS 21.45.300 is amended by adding a new subsection to read:

10 (dd) In this section, "operative date of the valuation manual" means the
11 January 1 of the first calendar year that the valuation manual described in
12 AS 21.18.112 is effective.

13 * **Sec. 19.** AS 21.12.020(d), 21.12.020(e), 21.12.020(f), 21.12.020(g), and 21.12.020(h) are
14 repealed.

15 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 TRANSITION: REGULATIONS. The director of insurance in the Department of
18 Commerce, Community, and Economic Development may adopt regulations necessary to
19 implement the changes made by this Act. The regulations take effect under AS 44.62
20 (Administrative Procedure Act), but not before the effective date of the law implemented by
21 the regulation.

22 * **Sec. 21.** This Act takes effect immediately under AS 01.10.070(c).