30th Alaska State Legislature
House Labor and Commerce Committee

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Sectional Analysis
House Bill 403 ver. J

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

Sec. 1 AS 21.79.010 is amended to conform to National Association of Insurance Commissioners' (NAIC) *Life and Health Insurance Guaranty Association Model Act* (MDL 520) model language and clarifies protections that apply to the failure in performance of contractual obligation because of the impairment or insolvency of the member insurer.

Sec. 2 AS 21.79.020(a) is amended to clarify that applicability includes a nonresident who is not eligible for coverage by a guaranty association in another state because the insurer was not licensed at the time specified in the guaranty association law of that state.

Sec. 3 AS 21.79.020(b) is amended to have AS 21.79 apply to a contract issued by a hospital or medical service corporation and defines the terms "annuity policy or contract" and "certificate under a direct group life health, annuity, or supplemental policy or contract". This section also includes health maintenance organizations (HMOs) in the definition of "health insurance," for the purposes of AS 21.79.

Sec. 4 AS 21.79.020(c) is amended to make AS 21.79 inapplicable to:

1. a policy or contract providing a hospital, medical, prescription drug, or other health care benefit in accordance with 42 U.S.C. 1395w-21 – 1395w-154 or federal regulations adopted under those sections; (Medicare Choice Program and Voluntary Prescription Drug Benefit Program)
2. a person who acquires rights to receive payments through a structured settlement factoring transaction as defined in 26 U.S.C. 5891(c)(3)(A), regardless of whether the transaction occurred before or after such section became effective.
3. structured settlement annuity benefits to which a payee or beneficiary has transferred the payee or beneficiary's rights in a structured settlement factoring transaction as defined in 26 U.S.C. 5891(c)(3)(A), regardless of whether the transaction occurred before or after 26 U.S.C. 5891(c)(3)(A) became effective.

- Subsection (c) is also amended to add clarifying language consistent with the model language, and provide exceptions to the above inapplicability.

Sec. 5 AS 21.79.020(d) Non-substantive changes are made for either consistency with the NAIC Model or drafting conventions.

Sec. 6 AS 21.79.020(e) Non-substantive changes made are for either consistency with the NAIC Model or drafting conventions, with a citation correction in paragraph (9).

Sec. 7 AS 21.79.025(a)

- AS 21.79.025(a)(2)(B)(ii) is amended to clarify that the benefits for which the association may become liable may not exceed $300,000 for long-term care insurance as defined under AS 21.53.200. Conforms to model language by replacing "basic hospital, medical, and surgical insurance or major medical insurance" with the term "health benefit plans."
- AS 21.79.025(a)(3) is amended to change "contract holder" to "contract owner" to be consistent with the NAIC Model, to clarify that the contract refers to an unallocated annuity contract issued to or in conjunction with a government lottery if the owner is a resident, and to clarify that the association is not liable to cover more than $5 million in benefits regardless of the number of policies and contracts held by the owner.
- AS 21.79.025(a)(4) is amended to increase the coverage limit for net cash surrender and net cash withdrawal values of annuities from $100,000 to $250,000 for individuals participating in a governmental retirement benefit plans established under 26 U.S.C. 401, 26 U.S.C. 403(b) or 26 U.S.C. 457 and covered by an unallocated annuity contract
- AS 21.79.025(a)(5) is amended to increase the coverage limit for net cash surrender and net cash withdrawal values, if any, from $100,000 to $250,000 to each payee of a structured settlement annuity, or beneficiary of the payee if the payee is deceased, in the aggregate.

Sec. 8 AS 21.79.025(c) is amended to not require the association to reissue the contractual obligations of an insolvent or impaired insurer under a covered policy or contract when the obligations do not materially affect the economic values or economic benefits of the covered policy or contract.

Sec. 9 AS 21.79.025(d) is amended to correct a typographical error, to replace "basic hospital, medical, and surgical insurance or major medical insurance" with the term "health benefit plans," and to add the word "contract" as is consistent with the model language.

Sec. 10 AS 21.79.025 is amended to add a new subsection: long-term care rider benefits to a life insurance policy or contract are considered to be the same type of benefits as the basic life insurance policy or contract to which it relates.

Sec. 11 AS 21.79.040(a) is amended to require a hospital or medical service corporation business and an HMO business to become members of an association.

Sec. 12 AS 21.79.050(a) is amended to increase the number of representatives on the Board of Governors of a guaranty association to 7-11 from 5-9.

Sec. 13 AS 21.79.060(a) is amended to allow the association to provide loans to assure payment of the contractual obligations of the impaired insurer until those obligations are guaranteed, reinsured, or assumed; also gives authority to reissue policies or contracts if the member insurer is impaired.

Sec. 14 AS 21.79.060(d) AS 21.79.060(d)(1) is amended to better track the model language by combining existing paragraphs 1 – 3 under AS 21.79.060(d) and removes reference to the receivership court. Tracking NAIC models and language promotes national uniformity and state-based regulation, and ease of interpretation, compliance, administration, enforcement, and amendment.

- AS 21.79.060(d)(1), consistent with the addition of loans under AS 21.79.060(a)(2) under Section 13 above, is amended to authorize the association to utilize loans necessary to discharge the association's duties under AS 21.79.060.
- AS 21.79.060(d)(2) is amended to better track the model language by placing existing subsections (e) – (j) in this paragraph. This subsection also adds the terms "contract," "enrollee," and HMOs, as is consistent with the model language.

Sec. 15 AS 21.79.060(k) is amended to conform with the model language by adding the word "contract."

Sec. 16 AS 21.79.060(*l*) is amended to require the association to provide a report to the liquidator regarding the premium collected by the association if requested by the liquidator of an insolvent insurer.

Sec. 17 AS 21.79.060(n) is amended to authorize the association to impose a permanent policy or contract lien under a guarantee, assumption, or reinsurance agreement if approved by a court and the association finds that the amount that may be assessed is less than the amount needed to assure full and prompt performance of the association's duties.

Sec. 18 AS 21.79.060(o) is amended to conform to the model language and change a subsection citation to conform with amendments being made.

Sec. 19 AS 21.79.060(p) is amended to change a subsection citation to conform to amendments being made to the section.

Sec. 20 AS 21.79.060(s) is amended to conform to the model language by adding the words "policies," "contracts," and "enrollee."

Sec. 21 AS 21.79.060(t) is amended to conform to model language and to allow the association to file rate and premium increases with the director for policies or contracts.

Sec. 22 AS 21.79.060 adds a new subsection (aa) to better track the model language by incorporating the provisions in existing AS 21.79.060(u) – (x).

Sec. 23 AS 21.79.070(a) is amended to require that any assessment of association members by the association board must be adopted by a resolution of the board.

Sec. 24 AS 21.79.070(c) is amended to increase the amount of a non-pro-rata assessment of from $250 per calendar year to $500 per calendar year. It also amends the class B assessment to include pro-rata assessments related to long-term care insurance, as well as changing the manner in which Class A and Class B assessments are made.

Sec. 25 AS 21.79.070(f) is amended to conform to the model language by adding the term "member insurer" in place of "insurer."

Sec. 26 AS 21.79.070(j) is amended to conform to the model language by adding the term "member insurer" in place of "insurer."

Sec. 27 AS 21.79.070(k) is amended to allow hospital and medical service corporations and HMOs to consider the amount necessary to meet its assessment obligations when determining its premium rates and policy owner dividends.

Sec. 28 AS 21.79.070(*l*) is amended to conform to model language by adding the term "member insurer."

Sec. 29 AS 21.79.080(c) is amended to require the association board to adopt a plan of operation that includes (1) procedures for removing a member of the board for cause, including procedures for removing a member of the board who becomes an impair or insolvent insurer, and (2) policies and procedures for addressing conflicts of interest.

Sec. 30 AS 21.79.090(b) is amended to conform to the model language by replacing the term "insurance" with the term "business."

Sec. 31 AS 21.79.090(c) is amended to (1) clarify that only a final action of the board may be appealed, and (2) increase the time by which an appeal may be taken from 30 days to 60 days after the date the notice of the board's action is mailed.

Sec. 32 AS 21.79.090(d) is amended to clarify that the liquidator, rehabilitator, or conservator of an insolvent insurer may notify all interested persons of the effect of AS 21.79.

Sec. 33 AS 21.79.100(a) is amended to require the director to notify other insurance regulatory officials in the country when issuing orders for the security of contract owners and certificate holders.

Sec. 34 AS 21.79.100(e) is amended to allow the director to seek the association board's advice and recommendations as to the financial condition of hospital and medical service corporations and HMOs.

Sec. 35 AS 21.79.100(f) is amended to enable the association board to make reports and recommendations to the director relating to the solvency of hospital and medical service corporations and HMOs.

Sec. 36 AS 21.79.100(h) is amended to conform to model language by using the term "member insurer."

Sec. 37 AS 21.79.110(c) is amended to add the words "or contract," as is consistent with the model language.

Sec. 38 AS 21.79.110(d) is amended to expand the list of those situations where the court may or must consider the contributions of the parties when distributing ownership rights.

Sec. 39 AS 21.79.110(e) is amended to conform to model language by using the term "member insurer."

Sec. 40 AS 21.79.110(f) is amended to conform to model language by using the term "member insurer," and adding the words "or contract" after "policy."

Sec. 41 AS 21.79.140 is amended to (1) clarify that a cause of action may not arise for an action or omission of the association and its agents and employees, members of the Board of Governors, member insurers, and agents and employees of member insurers, and the director of the division of insurance and the director's representatives in performing their duties under AS 21.79, and (2) extend the immunity to such entities' participation in an organization of one or more state associations of similar purposes and to that organization and its agents or employees.

Sec. 42 AS 21.79.150 is amended to extend the time a proceeding involving an insolvent insurer may be stayed from 60 days to 180 days after the date of a final order of liquidation, rehabilitation, or conservation in order to allow the association additional time to exercise a power or duty authorized under AS 21.79.

Sec. 43 AS 21.79.160(a) is amended to clarify that the section does not apply to entities that do not sell or solicit coverage by a hospital or medical service corporation or coverage by an HMO; conforms to model language by replacing the term "insurer" with "member insurer."

Sec. 44 AS 21.79.160(b) is amended to conform to model language by including the terms "member," "policy owner," "contract owner," "certificate holder," and "enrollee."

Sec. 45 AS 21.79.160(c) is amended to conform to model language by including the words "member," "policy owner," "contract owner," and "certificate owner." Prohibits hospital or medical service corporations or HMOs from using the existence of the association for sales, solicitation, or inducement to purchase insurance.

Sec. 46 AS 21.79.900(5) amends the term "called" to (1) mean a notice has been mailed by the association to member insurers requiring that an authorized assessment be paid within the time set out in the notice, and (2) include that an authorized assessment becomes "called" when notice is mailed by the association.

Sec. 47 AS 21.79.900(6) amends the term "contractual obligation" to clarify that the term only applies to an obligation for which coverage is provided under AS 21.79.020(a), (b), (d), and (e).

Sec. 48 AS 21.79.900(7) amends the term "covered policy" to include "covered contract."

Sec. 49 AS 21.79.900(10) amends the term "member insurer" to include a hospital or medical service corporation licensed under AS 21.87, and includes even those whose license or certificate of authority has been suspended, revoked, not reviewed, or voluntarily withdrawn.

Sec. 50 AS 21.79.900(12) is amended to conform to model language by changing the term "owner" in regard to a policy or contract to "policyholder," "policy owner," and "contract owner."

Sec. 51 AS 21.79.900(13) amends the term "plan sponsor" to clarify that the term applies to groups of representatives of parties, similar to two or more employers, or jointly by one or more employers and one or more employee organizations, an association, committee, or joint board of trustees who establish or maintain the benefit plan.

Sec. 52 AS 21.79.900(14) amends the term "premium" to clarify that assessable premium may not be reduced on account of AS 21.79.020(c)(4) relating to interest limitations and limitations with respect to one individual, one participant, and one contract owner.

Sec. 53 AS 21.79.900(15) conforms to model language by amending the definition of "receivership court" and uses the term "member insurer" in place of "insurer."

Sec. 54 AS 21.79.900(16) amends the term "resident" to delete language considered unnecessary under state drafting conventions.

Sec. 55 AS 21.79.900(19) amends the term "supplemental contract" to mean a written agreement entered into for the distribution of proceeds under life, health, or annuity policy or contract benefits.

Sec. 56 AS 21.79.900 is amended to add new paragraphs to define the terms "health benefit plan", "election date" and "extra contractual claim". The section is also amended to define "published monthly average", previously defined under AS 21.79.020(f).

Sec. 57 AS 21.86.260(a) is amended to apply AS 21.79 to HMOs.

Sec. 58 AS 21.87.340 is amended to add AS 21.79 to the list of statutory provisions which apply to hospital and medical service corporations.

Sec. 59 Repeals the following provisions

- AS 21.79.020(f) defining "published monthly average" as the definition is moved under AS 21.79.900.
- AS 21.060(c) is repealed as the provision no longer is in the model language.
- AS 21.79.060(e) – (j) are repealed as these provisions have been relocated to AS 21.79.060(d).
- AS 21.79.060(u) – (x) are repealed as these provisions have been relocated to AS21.79.060(aa).
- AS 21.79.110(e) is repealed as unnecessary because the state has adopted Section 602 of the NAIC *Insurers Receivership Model Act* (MDL 555)(AS 21.78.325).

Sec. 60 Provides for an uncodified new section outlining the timing of when the director may adopt regulations.

Sec. 61 Provides that section 60 of the Act takes effect immediately.

Sec. 62 Provides a July 1, 2018 effective date.