



# ALASKA STATE LEGISLATURE

## SENATE LABOR & COMMERCE COMMITTEE

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### **Senate Bill 132 – Omnibus Insurance Bill**

*“An Act relating to insurance; and providing for an effective date.”*

#### **Sectional Summary – ver. \H**

*This is a summary only. Note that this summary should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.*

**Section 1:** Adds a new provision to criminal statute AS 12.10.020, *Specific time limitation*, that allows for prosecution for any offense that relates to life insurance after the general time limitation has expired if it is commenced within one year after the discovery of the offense and extends the period of limitation otherwise applicable by no more than 20 years.

**Section 2:** Amends AS 21.07.030, *Choice of health care provider*, in subsection (a) to add an exemption for a health maintenance organization licensed under AS 21.86.

**Section 3:** Adds a new subsection to AS 21.07.030, *Choice of health care provider*, requiring insurers to provide details on prior authorization about benefit-level exceptions, if a claim will be processed as in-network or out-of-network, and any instructions that a consumer or provider must follow to request a benefit-level exception if it is required separate from a prior authorization. Provides for a definition of “benefit level exception.”

**Section 4:** Amends AS 21.09.200, *Annual statement; audited financial report*, subsection (g) by removing exemptions to the requirement to file with the director an annual audited financial report for the previous year by June 1.

**Section 5:** Amends AS 21.09.200, *Annual statement; audited financial report*, by adding a new subsection (m) which reinserts exemptions to the requirement to file an annual audited financial report. Provides for an insurer to request a hearing if the director denied an exemption application.

**Section 6:** Amends AS 21.09.210, *Tax on insurance*, by amended subsection (b) by setting the tax rate for wet marine and transportation insurance at three-fourths of one percent.

**Section 7:** Amends AS 21.09.242, *Cooperation with the Department of Health*, subsection (a) by making clarifying amendments, requiring insurers and pharmacy benefits managers to respond within 60 days to any inquiry by the Department of Health, and does not allow denial of a claim submitted by the Department of Health from failure to obtain prior authorization.

**Section 8:** Amends AS 21.12.020, *Reinsurance credit allowed a domestic ceding insurer*, subsection (h) to provide a technical amendment changing “shall” to “may” that aligns with NAIC model law 786 to ensure the division is compliant with financial accreditation requirements.

**Section 9:** Amends AS 21.12.020, *Reinsurance credit allowed a domestic ceding insurer*, subsection (i) to provide a technical amendment in the definition of “reciprocal jurisdiction” to recognize a credit for reinsurance that aligns with NAIC model law 786 to ensure the division is compliant with financial accreditation requirements.

**Section 10:** Amends AS 21.18.112, *Standard Valuation for policies and contracts issues on or after the operate date of the valuation manual*, subsection (e) that requires an insurer using a principle-based valuation for one or more policies or contracts as specified in the valuation manual to establish corporate governance processes to consider whether modifications or a waiver to the requirements of the section is appropriate. This aligns with NAIC model law 820 to ensure the division is compliant with financial accreditation requirements.

**Section 11:** Amends the definition of “policyholder behavior” by adding specific types of actions that are included and excluded under the definition.

### **Sections 12 - 26 Amend the Licensing Statutes:**

**Section 12:** Amends AS 21.27.020, *General qualifications for license*, subsection (c) by changing the term “class” to “line” to align with national uniformity under National Association of Insurance Commissioners (NAIC) Producer Licensing Model Act.

**Section 13:** Amends AS 21.27.020 (f), *General qualifications for license*, by having any additional education, experience or continuing education requirements adopted by the director apply to nonresident independent adjusters who designate Alaska as their home state for licensure purposes to ensure they are being held to the same standards as residents.

**Section 14:** Amends AS 21.27.025(a), *Required notice of licensee*, to delete unnecessary text. Requires the notice to be in writing by a licensee to the division of any criminal prosecution of the licensee in Alaska or another jurisdiction within 30 days after the date of filing of the criminal complaint, indictment, information, or citation in the prosecution.

**Section 15:** Amends AS 21.27.115, *Lines of authority*, by adopting lines of authority updates from the NAIC Producer Licensing Model Act to better align with industry standards and to ensure uniformity across states. This changes “health insurance” to “accident and health or sickness.” Note that (8) and (9) were repealed in 2016 and are not changed by this bill.

**Section 16:** Amends AS 21.27.270, *Licensing of nonresidents*, subsection (b) by adding “independent adjuster” as a type of nonresident license available in Alaska if the person’s home state offers that license type on the same basis as Alaska does. Adds a technical edit in (b)(3) to clarify the full type of license as a “surplus lines broker.”

**Section 17:** Amends AS 21.27.270, *Licensing of nonresidents*, subsection (h) by adopting updates from the NAIC Independent Adjuster Licensing Guideline (GDL 1224) to better align with industry standards and to ensure uniformity across states by deleting references to “portable electronics insurance.” Deletes the ability of residents of Canada to be licensed as an independent adjuster in this section to align all authority of “alien” licensure under the same standard in AS 21.27.275 for those individuals who do not have a home state.

**Section 18:** Amends AS 21.27.270, *Licensing of nonresidents*, subsection (i) by deleting references to “portable electronics” and having the effect of clarifying that Alaska can be a designated home state for a nonresident independent adjuster whose resident state does not license independent adjusters. This is a change to align with the adopted NAIC Independent Adjuster Licensing Guideline (GDL 1224).

**Section 19:** Adds a new subsection (j) to AS 21.27.270, *Licensing of nonresidents*, that requires any nonresident independent adjuster that designates Alaska as their home state for licensure must qualify under AS 21.27.020 and follow the licensure and renewal requirements in AS 21.27.040.

**Section 20:** Amends AS 21.27.380(d), *License renewal, expiration, and reinstatement*, by changing the requirement that the division mail physical copies of license expiration notifications with a certificate of mailing from the USPS to being delivered electronically to the licensee’s most current email address or physical mailing address.

**Section 21:** Provides a clarifying amendment to AS 21.27.630(d) about Third-party administrator registration requirements by changing “Licensee’s” to “Third-party administrator’s.”

**Section 22:** Makes a technical amendment to AS 21.27.640(b), *Third-party administrator qualifications*, by changing “a government agency of another state, by a governmental agency of another jurisdiction” to the more precise and encompassing “a government agency.”

**Section 23:** Makes a technical amendment to AS 21.27.990(8) the definition for “compliance officer” by deleting “and class” to align with the NAIC Producer Licensing Model Act. Clarifies the citation for the authority as AS 21.27.115 to be more precise.

**Section 24:** Amends AS 21.27.990(12) the definition for “home state” by deleting references to “portable electronics” to align with the amendments made in section 17 to allow a nonresident independent adjuster designate Alaska as their home state for licensure purposes if their resident state does not license independent adjusters.

**Section 25:** Amends AS 21.27.990(13) the definition for “independent adjuster” to align with the adopted NAIC Independent Adjuster Licensing Guideline (GDL 1224) by removing any references to “portable electronics” and providing the new definition as “a person who investigates, negotiates, or settles property, causality, or workers’ compensation claims for insurers or self-insurers.”

**Section 26:** Amends AS 21.27.990(20) the definition for “limited lines” by removing the ability for the director to designate other lines of insurance as limited lines.”

## **Sections 27 – 33 Amend the Tax and Surplus Lines Insurance Statutes**

**Section 27:** Amends AS 21.33.055, *Unauthorized insurance premium tax*, subsection (d) by authorizing a surplus lines broker to pay the tax on behalf of the nonadmitted wet marine and transportation insurer or the insured. Adds a technical amendment specifying the notice of default is from the director.

**Section 28:** Amends AS 21.34.035 to add “disability insurance” throughout the section and provides a definition for “disability insurance” specific to the surplus lines. This aligns with changes made in the NAIC’s Guideline on Nonadmitted Accident and Health Coverage.

**Section 29:** Amends AS 21.34.040, *Eligible surplus lines insurers required*, subsection (d) to clarify with technical amendments the process an insurer, including a nonadmitted insurer, not domiciled in Alaska may be eligible to provide coverage in Alaska.

**Section 30:** Amends AS 21.34.170(a), *Quarterly reports, summary of exported business*, by removing a requirement of a surplus lines insurer to report on the amount of aggregate tax remitted to other states for which an allocation is made under AS 21.34.180, *Surplus lines tax*. Clarifies the surplus lines broker is responsible for filing quarterly reports.

**Section 31:** Amends AS 21.34.190, *Filing fee*, by clarifying the filing fee for the *Surplus lines tax* under AS 21.34.180 is in a form and manner required by the director. Adjusts the late fee calculation to be less punitive when a surplus lines broker does not pay the filing fee on time. Grants the director the authority to assess a civil penalty of not more than \$10,000 for a violation and the ability to suspend or revoke the license of a surplus lines broker that fails to pay the filing fee.

**Section 32:** Expands the definition of “home state” in AS 21.34.900(8) to account for multinational transactions placed in surplus lines as well as defining home state for nonaffiliated groups.

**Section 33:** Amends AS 21.34.900(15) making changes the definition for “wet marine and transportation insurance” to have the meaning given in AS 21.12.090(b) to have a consistent definition for the term in Title 21.

## **Sections 34 – 43 Amends Trade Practices & Consumer Notice Requirement Statutes**

**Section 34:** Amends AS 21.36.125, *Unfair claim settlement practices*, to prohibit the depreciation of labor in a claim settlement.

**Section 35:** Amends AS 21.36.225, *Notice of health insurance coverage cancellation, coverage change, or premium change*, to remove a current exemption and ensure all consumers are notified in writing by an insurer at least 45 days before an effective date of a policy cancellation.

**Section 36:** Amends AS 21.36.235, *Notice of premium or coverage changes upon renewal*, subsection (a) to increase the notification period from 20 days to 45 days for both individuals and business or commercial policies when a renewal premium is more than 10% or there are material restrictions or reductions in coverage not requested by the insured.

**Section 37:** Amends AS 21.36.240, *Failure to renew*, subsection (a) to increase the notification period from 20 days to 45 days for both individuals and business or commercial policies when an insurer fails to renew a policy.

**Section 38:** Adds a new subsection (e) to AS 21.36.240, *Failure to renew*, that provides an offer of placement for coverage with an affiliate insurer does not constitute a failure to renew by the insurer.

**Section 39:** Adds a new section to Article 4, *Trade Practices and Frauds*, to prohibit an insurer from cancelling or failing to renew a property and casualty policy solely based on when a policy holder filed a claim knowing no coverage applied in the policy and no benefits were paid, but a denial was required in order to apply for local, state or federal aid such as FEMA.

**Section 40:** Amends AS 21.36.475, *Limitation on owner controlled and contractor-controlled insurance programs*, subsection (a) by adding a major multi-owner residential construction project to the type of projects which may be approved by the director.

**Section 41:** Amends AS 21.36.475, *Limitation on owner controlled and contractor-controlled insurance programs*, subsection (b) to amend an exemption in order to allow additional insureds on a policy when required by a contract and to allow owner controlled or contractor-controlled insurance programs for major construction projects.

**Section 42:** Amends AS 21.36.475 *Limitation on owner controlled and contractor-controlled insurance programs*, adding a new paragraph (c) defining a “major multi-owner residential construction project” as one which involves at least 50 units and three or more property owners and with a total cost of \$25,000,000.

**Section 43:** Amends AS 21.36.505, *Health discount plans*, in subsection (a) by removing the requirement that the discounts offered under the plan are specifically authorized by contract with each provider of the services or supplies listed in the plan. Adds new requirements for health discounts plans to be registered and renewed in accordance with regulations adopted by the director.

**Section 44:** Adds a new section to Article 5, *Trade Practices and Frauds*, that prohibits a person transacting insurance in this state from discriminating against a person based solely on a person's political affiliation or expression or a person's status as an elected state official.

**Section 45:** Amends AS 21.36.910, *Hearings and order on violation*, to align the property and casualty statutes with the life and health statutes and allow the director to better protect consumers by requiring insurance companies to include restitution when claims were improperly paid.

**Section 46:** Amends AS 21.39.155 to increase the starting threshold for any surcharge an insurer imposes in the Workers' Compensation assigned risk pool to apply after the first \$6,000 of premium instead of after the first \$3,000 of premium.

**Section 47:** Amends AS 21.42.250 to allow an insurer to provide a policy or endorsement to the insured by email in addition to the current option of mail or posting on their website.

**Section 48:** Amends AS 21.42.377, *Coverage for colorectal cancer screening*, subsection (c) by lowering the age for the screening to 45 from its current 50 in line with national screening guidelines.

**Section 49:** Amends AS 21.45.305, *Standard nonforfeiture law for individual deferred annuities*, in subsection (c)(2)(C) to lower the interest rate from 1.0% to .15% to provide flexibility when in a low-interest rate environment. This change aligns with NAIC Model Law #805, *Standard Nonforfeiture Law for Individual Deferred Annuities* (2020).

**Section 50:** Amends AS 21.48.010, *Group requirements for group contracts*, subsection (f) by clarifying the insurer's submission requirements and the director's review actions and exempting certain organizations from requiring the director's affirmative approval.

**Section 51:** Amends AS 21.51.060, *Grace Period*, subsection (b) to increase the number of days from 30 to 45 in a required provision in policies for which the insurer reserves the right to refuse renewal for a health insurance policy, consistent with the amendment to AS 21.36.225 in Section 35.

**Section 52:** Makes a technical update to AS 21.57.160, subsection (1) to correct the part of speech used in a definition.

**Section 53:** Amends AS 21.59, Adding new section 21.59.125, *Motor vehicle service contract approval*, changing motor vehicle service contracts to require prior approval.

**Section 54:** Makes a technical amendment to AS 21.59.140, *Provider license; notice to licensee*, subsection (c) by changing "a government agency of another state or by a governmental agency of another jurisdiction" to the more precise and encompassing "a government agency."

**Section 55:** Amends AS 21.60, *Property Insurance Contracts*, adds a new section .030, to prohibit the depreciation of labor in a claim settlement except where offered as a stand-alone endorsement. Additionally, the endorsement must be an optional coverage and provide proportional reduction in premium.

**Section 56:** Makes technical updates to AS 21.76.070, *Excess insurance*, in the Joint Insurance Arrangements chapter, by changing the term "unauthorized" to "nonadmitted" to reflect current terminology and updating the reference to AS 21.34.040 to be consistent with the amendment made in Section 29.

**Section 57:** Makes a technical amendment to AS 21.79.020, *Scope*, subsection (c)(16) to update a federal citation in the Alaska Life and Health Insurance Guaranty Association Act chapter.

### **Sections 58 – 60 Amend the Health Maintenance Organizations Statutes**

**Section 58:** Amends AS 21.86.040, *Governing body; enrollee participation*, subsection (a) to clarify consumer representation on the governing body of a health maintenance organization.

**Section 59:** Amends AS 21.86.060, *Provision of services*, subsection (b) to add "fixed fee" as a financial basis for health maintenance organization provision of health care services.

**Section 60:** Adds new subsections to AS 21.86.060, *Provision of services*, to require health maintenance organizations to provide coverage at an in-network level of cost sharing for out of network emergency services for screening and stabilization, and out of network medically necessary services for which an in-network provider is not available.

**Section 61:** Adds a new subsection to AS 21.96.090, *Risk retention groups and purchasing groups*, requiring risk retention groups to file reports on premium written or contracted in the state per subsection (a) and to pay tax on that premium per subsection (b).

**Section 62:** Amends AS 21.96.120, *Waiver for state innovation*, to allow the director to apply to any federal agency for a waiver of federal law relating to health insurance requirements and makes technical amendments to reflect ongoing amendments to federal statutes.

**Section 63:** Amends AS 21.97.900, *Definitions for title*, to add a definition of “motor vehicle”.

**Section 64:** Repeals the following:

- subsection (d) of AS 21.09.210 *Tax on insurers*, specific to wet marine and transportation contracts as the State of Alaska is losing roughly \$300,000 in tax revenue per year as written. Sections 6 provides new requirements;
- section (g) of AS 21.27.020 *General qualifications for license*, requiring the director to establish a continuing education advisory committee;
- subsection (a), the only remaining subsection of AS 21.27.330, *Place of business*, requiring that a licensee under Chapter 27 *Producers, Agents, Administrators, Brokers, Adjusters, and Managers*, have a place of business that is physically accessible to the public;
- subsection (d) of AS 21.34.030, *Workers’ compensation insurance*, requirements for minimum capital and surplus requirements; to streamline requirements for Surplus lines and ensure Alaskans have access to the product.
- subsection (b)(4) of AS 21.39.020, *Applicability*, an exemption to Chapter 39 *Rates and Rating Organizations*, for insurance for loss, damage, or liability relating to aircraft; and
- AS 21.59.290(2) the current definition for “motor vehicle” since a definition was added for all of Title 21 in Section 61.
- AS 21.86.078, *Choice of health care provider*, which requires that health maintenance organizations offer point-of-service health plans with access to out-of-network providers without referrals or prior authorization. Section 51 addresses out of network access for health maintenance organization health plans.

**Section 65:** Provides an applicability for Section 41 (Owner controlled or contractor-controlled insurance programs) that applies to any contracts entered into on or after the effective date of the bill (Section 44).

**Section 66:** Adds an immediate effective date for the Act.