



LAWS OF ALASKA

1987

Source

SCS CSHB 46 (L&C)

Chapter No.

29

AN ACT

Relating to regulation of insurance; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: May 30, 1987
Actual Effective Date: August 28, 1987, except for sec. 31,
which takes effect May 31, 1987

AN ACT

Relating to regulation of insurance; and providing for an effective date.

* Section 1. AS 21.09.210(c) is amended to read:

(c) A domestic company that has filed with the director, before July 1, 1987, for approval to organize is exempt from taxation under this section for a period of not more than five years from the date of its organization or until June 30, 1989, whichever occurs first.

* Sec. 2. AS 21.09.250 is amended to read:

Sec. 21.09.250. PROHIBITED ACTS. An insurer doing business in this state may not make, write, place, or cause to be made, written, or placed in this state a policy, duplicate policy, or contract of insurance of any kind or character, or general or floating policy upon persons or property resident, situated, or located in this state, from or through a broker, agent, general agent, surplus line broker, or person who has not secured a license in this state. An insurer may not pay a commission or any form of remuneration to a person, firm, or organization for the writing or placing of insurance coverage in this state unless that person, firm, or organization holds a license issued by the director.

* Sec. 3. AS 21.09.280 is amended to read:

Sec. 21.09.280. GENERAL AGENTS [AND MANAGERS]. (a) An insurer appointing a person as its general agent [OR MANAGER] to represent it in this state shall file notice of the appointment with the director

Chapter 29

1 on forms prescribed and furnished by the director.

2 (b) A general agent [OR MANAGER] has the authority, consistent
3 with this title, that may be conferred by the insurer. A general
4 agent, resident or nonresident, qualified in AS 21.27.090, licensed as
5 provided in this section in the same manner as is provided for agents
6 in AS 21.27, may exercise the powers conferred by this title upon
7 agents licensed for the kinds of insurance that the general agent is
8 authorized to transact for the insurer appointing the agent.

9 (c) The [EXCEPT AS PROVIDED UNDER AS 21.27.500, THE] appointment
10 of a resident or nonresident general agent is not effective unless the
11 person appointed is licensed as the general agent of the insurer by
12 the director upon application and payment of a fee set under AS 21.-
13 06.250.

14 (d) Every license is subject to the payment of an annual fee set
15 under AS 21.06.250 and payable on or before [EXPIRES AT] the close of
16 business on the 30th day of June of each year [FOLLOWING THE DATE OF
17 ISSUE, AND MAY BE RENEWED FOR AN ADDITIONAL YEAR UPON APPLICATION AND
18 PAYMENT OF THE FEE].

19 (e) The director may deny, suspend, or revoke a license for any
20 cause specified in AS 21.27.410 in the manner provided in AS 21.27.-
21 420.

22 * Sec. 4. AS 21.09.280 is amended by adding new subsections to read:

23 (f) Persons employed on salary by an insurer, including officers
24 and salaried employees performing the same services as general agents,
25 are considered to be service representatives and are not required to
26 be licensed.

27 (g) For purposes of this section, a person, firm, or corporation
28 that performs management services for an insurer is not considered a
29 general agent if

(1) the person, firm, or corporation is a wholly-owned subsidiary of the insurer;

(2) the person, firm, or corporation wholly owns the insurer; or

(3) the person, firm, or corporation is a wholly-owned subsidiary of the insurance holding company that owns or controls the insurer.

* Sec. 5. AS 21.27.020 is amended to read:

Sec. 21.27.020. GENERAL QUALIFICATIONS FOR LICENSE. For the protection of the people of this state, the director may not issue [OR RENEW] a license except in compliance with this chapter [, OR] to a person, or to be exercised by [,] a person, found by the director to be untrustworthy, incompetent, or who has not established to the satisfaction of the director that the person is qualified under [IN ACCORDANCE WITH] this chapter.

* Sec. 6. AS 21.27.030(a) is amended to read:

(a) The director may not grant an agent, solicitor, or broker license to a person if the director has reasonable cause to believe that

[(1) DURING EITHER OF THE TWO CALENDAR YEARS IMMEDIATELY PRECEDING THE REQUEST FOR RENEWAL OF THE LICENSE THE AGGREGATE AMOUNT OF COMMISSIONS REPRESENTED BY THE CONTROLLED BUSINESS PROCURED BY OR THROUGH THE LICENSEE EXCEEDED THE AGGREGATE AMOUNT OF COMMISSIONS REPRESENTED BY ALL OTHER INSURANCE BUSINESS PROCURED BY OR THROUGH THE LICENSEE; OR

(2)] the circumstances of the applicant for the license [OR OF A LICENSEE] are such [AS TO CAUSE THE DIRECTOR REASONABLY TO BELIEVE] that during the 12-month period immediately following issuance [OR RENEWAL] of the license, if issued [OR RENEWED], the aggregate

Chapter 29

1 amount of commissions to be represented by the controlled business
2 would exceed the aggregate amount of commissions to be represented by
3 all other insurance business to be procured by or through the appli-
4 cant [OR LICENSEE].

5 * Sec. 7. AS 21.27.030 is amended by adding a new subsection to read:

6 (d) The director may revoke an agent, solicitor, or broker
7 license if the director has reasonable cause to believe that during
8 either of the two preceding calendar years the aggregate amount of
9 commissions represented by the controlled business procured by or
10 through the licensee exceeded the aggregate amount of commissions
11 represented by all other insurance business procured by or through the
12 licensee.

13 * Sec. 8. AS 21.27.060 is amended to read:

14 Sec. 21.27.060. EXAMINATION OF APPLICANTS. (a) Each applicant
15 for an individual license as agent, broker, solicitor, or adjuster
16 shall, before the issuance of the license, personally take and pass,
17 to the satisfaction of the director, an examination given by the
18 director as a test of the qualifications and competence of the appli-
19 cant. This requirement does not apply to

20 (1) applicants for limited licenses, as travel insurance
21 agents only, under AS 21.27.150, or, at the discretion of the direc-
22 tor, to applicants for licenses as disability insurance agents for the
23 purpose of handling limited coverages pertaining to sports and recre-
24 ation;

25 (2) applicants who at any time within the five-year period
26 immediately preceding the date of application have been licensed in
27 this state under a license requiring qualifications required by the
28 license applied for and who are considered by the director to be fully
29 qualified and competent;

(3) applicants for license as nonresident agent or as nonresident broker who have fulfilled qualification requirements in their state or province of residence and who are considered by the director to be fully qualified and competent;

(4) applicants for an agent or solicitor license covering the same kinds of insurance as an agent's or solicitor's license then held by them.

(b) The director may at any time require an individual [A] licensed as an agent, broker, solicitor, or adjuster to take and successfully pass an examination testing competence and qualifications as a condition to the continuance [OR RENEWAL] of the license if the licensee has been guilty of violation of this title, or has so conducted affairs under the license as to cause the director reasonably to desire further evidence of the qualifications of the licensee.

* Sec. 9. AS 21.27.090(a) is amended to read:

(a) To qualify for an individual agent or broker license an applicant shall comply with this title and

(1) be 19 years of age or over [, IF AN INDIVIDUAL];

(2) if for a resident agent's or broker's license, be a bona fide resident before issuance of license [,] and actually reside in the state [RESIDING IN ALASKA, OR IF A CORPORATION, BE OTHER THAN AN INSURER AND MAINTAIN A LAWFULLY ESTABLISHED PLACE OF BUSINESS IN THIS STATE, EXCEPT AS PROVIDED IN AS 21.27.270];

(3) [BE EMPOWERED TO BE AN AGENT OR BROKER, AS THE CASE MAY BE, UNDER ITS MEMBERS' AGREEMENT, IF A FIRM, OR BY ITS ARTICLES OF INCORPORATION, IF A CORPORATION;

(4)] successfully pass any examination required under AS 21.27.060;

(4) [(5)] be a trustworthy person;

Chapter 29

1 (5) [(6)] not use or intend to use [OR USE] the license for
2 the purpose principally of writing controlled business, as defined in
3 AS 21.27.030;

4 (6) [(7)] if for an agent license, be appointed as its
5 agent by one or more authorized insurers, subject to issuance of the
6 license, except that an individual acting on behalf of a firm is not
7 required to have an appointment as an agent for that activity;

8 (7) [(8)] if for broker license, have had experience either
9 as an agent, solicitor, adjuster, general agent, broker, or as an
10 employee of insurers or representatives of insurers, or special educa-
11 tion or training of sufficient duration and extent reasonably to
12 satisfy the director that the applicant possesses the competence
13 necessary to fulfill the responsibilities of broker.

14 * Sec. 10. AS 21.27.090 is amended by adding a new subsection to read:

15 (c) To qualify for a firm agent or broker license an applicant
16 shall comply with this title and

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

18 (2) if a corporation, maintain a lawfully established place
19 of business in this state, except as provided in AS 21.27.270.

20 * Sec. 11. AS 21.27.130 is amended to read:

21 Sec. 21.27.130. CONTENT OF AGENT, BROKER, SOLICITOR LICENSES.
22 Agent, solicitor, and broker licenses must [SHALL] be in the form the
23 director prescribes, and must [SHALL] set out

24 (1) the name and address of the licensee, or if the lic-
25 enssee is required to have a place of business, the address of the
26 place of business;

27 (2) if the agent or broker is a firm [OR CORPORATION], the
28 name of the principal or manager of the firm holding an individual
29 license as required by AS 21.27.140 [EACH INDIVIDUAL AUTHORIZED TO

EXERCISE THE POWERS CONFERRED BY THE LICENSE];

(3) the kind or kinds of insurance the licensee is [THERE-BY] licensed to handle;

(4) if a solicitor's license, the name and address of the agent or broker represented by the solicitor;

(5) the condition under which the license is granted;

(6) the date of issuance [AND DATE OF EXPIRATION] of the license.

* Sec. 12. AS 21.27.140 is amended to read:

Sec. 21.27.140. LICENSES TO FIRMS [AND CORPORATIONS]. A firm shall have a firm license of the same degree as each individual licensee acting on behalf of the firm. A firm [OR CORPORATION] may not be licensed as an adjuster, agent, or broker unless each individual acting as or representing to be an adjuster, agent, or broker on behalf of the firm is licensed as an individual, and the principal or manager of the firm is licensed as an individual to exercise all the powers conferred by the firm's license. If the licensee knows of and consents to an act or representation on behalf of the firm by an individual who is not licensed as required by this chapter, that act or representation [TO BE EMPOWERED AND DESIGNATED IN THE LICENSE TO EXERCISE THE POWERS CONFERRED BY THE LICENSE IS QUALIFIED AS THOUGH THE INDIVIDUAL WERE THE SOLE INDIVIDUAL TO BE SO EMPOWERED, EXCEPT THAT A FIRM OR CORPORATION LICENSED FOR ALL LINES MAY EMPOWER AND DESIGNATE ANY INDIVIDUAL, OTHER THAN THE PRINCIPAL OR MANAGER, LICENSED FOR ONLY PROPERTY-CASUALTY OR LIFE-DISABILITY TO EXERCISE THE POWERS CONFERRED BY THE LICENSE TO THE EXTENT THAT INDIVIDUAL IS QUALIFIED TO ACT. EXERCISE OR ATTEMPTED EXERCISE OF THE POWERS BY AN INDIVIDUAL NOT SO DESIGNATED, WITH THE KNOWLEDGE OR CONSENT OF THE LICENSEE,] is cause for the revocation or suspension of the firm

Chapter 29

license.

* Sec. 13. AS 21.27.170(b) is amended to read:

(b) The director shall issue to the agent a special vending machine license for each machine to be used. The license must [SHALL] specify the name and address of the insurer and agent, the name of the policy to be sold, the serial number of the machine, and the place where the machine is to be in operation. The license is [SHALL BE] subject to [ANNUAL CONTINUATION, TO EXPIRATION,] suspension or revocation coincidentally with that of the agent. The director shall also revoke the license on a machine if the director finds that the conditions upon which the machine was licensed, under [AS REFERRED TO IN] (a) of this section, no longer exist. Proof of the existence of a [SUBSISTING] license shall be displayed on or about each vending machine in use in the manner the director may reasonably require.

* Sec. 14. AS 21.27.190(a) is amended to read:

(a) Each applicant for a broker license [OR FOR THE RENEWAL OF A BROKER LICENSE EXISTING ON JULY 1, 1966,] shall file with the application [OR REQUEST FOR RENEWAL] and shall after that [THEREAFTER] maintain in force while [SO] licensed a bond in favor of the people of the state, executed by an authorized corporate surety approved by the director, in the amount of \$10,000 [\$5,000]. The bond may be continuous in form, and total aggregate liability on the bond may be limited to the payment of \$10,000 [\$5,000]. The bond must [SHALL] be contingent on the accounting by the broker, to a [ANY] person requesting the broker to obtain insurance or to a person from whom the broker obtains insurance, for money or premiums collected in connection with the insurance [THEREWITH].

* Sec. 15. AS 21.27.190 is amended by adding a new subsection to read:

(c) An individual who acts on behalf of a firm that files and

maintains in force the bond described in (a) of this section is exempt from the requirements of (a) of this section.

* Sec. 16. AS 21.27.200(a) is repealed and reenacted to read:

(a) A broker is not an agent or other representative of an insurer and does not have power as a broker to bind the insurer regarding a risk or an insurance contract.

* Sec. 17. AS 21.27.200 is amended by adding new subsections to read:

(c) In determining an insured's entitlement to coverage or return premium, a premium payment made to a broker shall be considered received by the insurer if

(1) the payment was, at the time it was made, designated for specific coverage; and

(2) the insurer accepted or acknowledged coverage by issuing a policy, binder, or other contract for temporary insurance.

(d) A broker may not knowingly accept payment for coverage until coverage is authorized by an insurer.

(e) Except as provided under (c) of this section, this section is not intended to alter the common law of agency as applied to transactions under this title.

* Sec. 18. AS 21.27.240(a) is amended to read:

(a) An agent or broker who employs a solicitor shall pay the [THE] fee for issuance or annual fee for continuation [RENEWAL] of a solicitor license [SHALL BE PAID BY THE AGENT OR BROKER BY WHOM THE SOLICITOR IS EMPLOYED].

* Sec. 19. AS 21.27.300 is amended to read:

Sec. 21.27.300. CONTENTS OF LICENSE. The director shall prescribe the form of adjuster license, which must contain

(1) the name and business address of the adjuster;

(2) date of issuance [AND DATE OF EXPIRATION] of the li-

Chapter 29

1 cense;

2 (3) other statements proper to the purposes of the license.

3 * Sec. 20. AS 21.27.350 is amended by adding a new subsection to read:

4 (c) In addition to the record required under (a) of this sec-
5 tion, each agent or broker shall have and maintain at the agent's or
6 broker's principal place of business current accounting and financial
7 records maintained in accordance with generally accepted accounting
8 principles. The director may request summary or detailed copies for
9 examination by the division. Records examined under this subsection
10 are confidential when in the possession of the division, but may be
11 used by the director in a proceeding against the licensee. For pur-
12 poses of this subsection, the records of a firm shall be considered
13 the records of an individual agent or broker acting on behalf of the
14 firm.

15 * Sec. 21. AS 21.27.360(b) is amended to read:

16 (b) All funds, except those made payable to the insurer, repre-
17 senting premiums or return premiums received by an agent or broker,
18 shall be received in the fiduciary account of the agent or broker, and
19 shall be deposited in a bank account or depository separate from any
20 other account or depository, and shall be promptly accounted for and
21 paid to the insured, insurer, or agent entitled to the funds. For
22 purposes of this subsection, the fiduciary account of the firm shall
23 be considered the fiduciary account of an individual agent or broker
24 acting on behalf of the firm. Funds deposited into a fiduciary ac-
25 count may not be commingled or otherwise combined with other funds,
26 except as allowed under (d) of this section.

27 * Sec. 22. AS 21.27.360 is amended by adding new subsections to read:

28 (d) An agent or broker may commingle with premium funds, addi-
29 tional funds for the purpose of advancing premiums, establishing

reserves for the payment of return premiums, or reserves for receiving and transmitting premium or return premium funds. Funds collected for the payment of premium taxes, policy or filing fees, late payment charges, and interest from fiduciary funds on deposit, may be commingled in a fiduciary account, but shall be separately accounted for and periodically removed from the fiduciary account.

(e) An agent or broker may not treat funds required to be in a fiduciary account as a personal asset, as collateral for a personal or business loan, or as a personal asset or income on a financial statement, except that funds in a fiduciary account may be included in a financial statement of the agent or broker if clearly identified as fiduciary account assets.

(f) In this section, "fiduciary account" means an account in which the agent or broker holds funds as a trustee for the insured, insurer, or agent entitled to the funds.

* Sec. 23. AS 21.27.380 is repealed and reenacted to read:

Sec. 21.27.380. ANNUAL FEE FOR LICENSES. (a) An annual fee set under AS 21.06.250 for resident and nonresident agent, solicitor, and adjuster licenses is due on or before the close of business on the 30th day of June.

(b) An annual fee set under AS 21.06.250 for resident and nonresident broker licenses is due on or before the close of business on the 31st day of December.

(c) An agent or broker shall file the annual fee set under AS 21.06.250 on behalf of a solicitor employed by the agent or broker.

(d) If payment of the annual license fee is not received by the director before the due date as required under this section, the licensee shall pay to the director and the director shall collect, in addition to the regular fee, a surcharge as established by regulation

Chapter 29

1 under AS 21.06.250. This subsection may not be considered to exempt a
2 person from a penalty provided by law for transacting business without
3 a valid license.

4 * Sec. 24. AS 21.27.390(a) is amended to read:

5 (a) The director may adopt regulations regarding the issuance of
6 an agent or broker temporary license to

7 (1) the surviving spouse or next of kin or to the adminis-
8 trator or executor of a deceased licensed agent or broker;

9 (2) the spouse, next of kin, employee, or legal guardian of
10 a licensed agent or broker who is disabled because of sickness, insan-
11 ity, or injury;

12 (3) a surviving member, [OF A FIRM OR SURVIVING] officer,
13 or employee of a firm [CORPORATION] licensed as agent or broker, upon
14 the death of the principal or manager of the firm holding the same
15 licenses as the firm [AN INDIVIDUAL DESIGNATED IN THE FIRM OR CORPO-
16 RATION'S LICENSE TO EXERCISE POWERS THEREUNDER];

17 (4) the designee of a licensed agent who enters active
18 service in the armed forces of the United States;

19 (5) a person preparing for examination for permanent li-
20 cense under the supervision of an authorized insurer.

21 * Sec. 25. AS 21.27.410(a) is amended to read:

22 (a) The director may refuse to issue a license or may suspend or
23 [,] revoke [, OR REFUSE TO RENEW] a license issued under this chapter
24 or a surplus line broker license, or may refuse to renew a surplus
25 line broker license, for a cause specified in another [ANY OTHER]
26 provision of this title, or for any of the following causes:

27 (1) for a [ANY] cause for which issuance of the license
28 could have been refused had it then existed and been known to the
29 director;

(2) if the licensee or applicant wilfully violates or knowingly participates in the violation of a provision of this title;

(3) if the licensee or applicant has obtained or attempted to obtain the license through wilful misrepresentation or fraud, or has failed to pass an [ANY] examination required under this chapter;

(4) if the licensee or applicant has misappropriated or converted to personal use or has illegally withheld money required to be held in a fiduciary capacity;

(5) if the licensee or applicant has, with intent to deceive, materially misrepresented the terms or effect of an insurance contract; or has engaged or is about to engage in a fraudulent transaction;

(6) if the licensee or applicant has been guilty of "twisting," under AS 21.36.050, or of rebating, under AS 21.36.100;

(7) if the licensee or applicant has been convicted, by final judgment, of a felony;

(8) if in the conduct of affairs under the license, the licensee exhibits conduct considered by the director to reflect incompetence, untrustworthiness, or a source of injury and loss to the public;

(9) if the licensee or applicant has dealt with, or attempted to deal with, insurances or to exercise powers relative to insurance outside the scope of the licenses of the licensee or applicant.

* Sec. 26. AS 21.27.410(b) is amended to read:

(b) The license of a firm [OR CORPORATION] may be suspended, revoked, or refused for any of the causes that [WHICH] relate to a [ANY] person acting on behalf of the firm [DESIGNATED IN THE LICENSE TO EXERCISE ITS POWERS].

Chapter 29

1 * Sec. 27. AS 21.27.420 is amended to read:

2 Sec. 21.27.420. PROCEDURE FOR SUSPENDING OR [,] REVOKING [OR
3 REFUSING TO RENEW] A LICENSE. The director may suspend or [,] revoke
4 [, OR REFUSE TO RENEW] a license

5 [(1) BY ORDER GIVEN TO THE LICENSEE NOT LESS THAN 15 DAYS
6 BEFORE THE EFFECTIVE DATE OF THE LICENSE, SUBJECT TO THE RIGHT OF THE
7 LICENSEE TO HAVE A HEARING AS PROVIDED IN AS 21.06.180(b); PENDING A
8 HEARING THE LICENSE SHALL BE SUSPENDED; OR

9 (2)] by an order on hearing made as provided in AS 21.06.-
10 220 effective 10 days after the date of the giving of the order,
11 subject to the right of the licensee to appeal to the superior court
12 as provided in AS 21.06.230.

13 * Sec. 28. AS 21.27.440 is amended to read:

14 Sec. 21.27.440. CIVIL PENALTIES MAY BE IMPOSED. After hearing
15 and in addition to or in lieu of the suspension or [,] revocation of
16 [, OR REFUSAL TO RENEW] a license, the director may levy a civil
17 penalty upon the licensee not to exceed \$2,500. The order levying the
18 civil penalty must [SHALL] specify the period within which the civil
19 penalty shall be fully paid. The [, WHICH] period may not be less
20 than 15 or more than 30 days after [FROM] the date of the order. Upon
21 failure to pay the civil penalty when due, the director shall revoke
22 the licenses of the licensee if not already revoked. A [THE] civil
23 penalty collected [SHALL BE PAID] by the director shall be paid to the
24 commissioner of revenue for deposit in the general fund.

25 * Sec. 29. AS 21.27.450 is amended to read:

26 Sec. 21.27.450. FINE IN LIEU OF ACTION AGAINST THE LICENSE.
27 Upon the hearing of an appeal from an order suspending or [,] revoking
28 [, OR REFUSING TO RENEW] a license issued under this chapter, the
29 court, if it finds that the licensee is guilty of violation of the law

and if it considers the suspension or [,] revocation [, OR REFUSAL TO RENEW THE LICENSE] too severe a penalty under the facts as found, may instead impose a fine of not more than \$2,500. Payment of the fine within 10 days after its imposition reinstates or restores [SHALL REINSTATE, RESTORE, OR RENEW] the license.

* Sec. 30. AS 21.27.460(a) is amended to read:

(a) Each license issued under this chapter, although issued and delivered to the licensee agent, broker, solicitor, or adjuster, is the property of the state. Upon the [EXPIRATION,] termination, suspension, or revocation of the license, the licensee or other person having possession or custody of the license shall immediately deliver it to the director either by personal delivery or by mail.

* Sec. 31. AS 21.34.040(c) is amended to read:

(c) A nonadmitted insurer may be eligible to provide coverage in this state if it qualifies under one of the following:

(1) a foreign but nonalien insurer may qualify under this subsection if it has a minimum capital and surplus equal to that required in its domiciliary jurisdiction, or [,] \$1,500,000 on September 18, 1984, [AND] \$2,500,000 on June 20, 1985, [AND] \$3,500,000 [,] on June 20, 1986, and \$5,000,000 on June 20, 1987, whichever is greater;

(2) an alien insurer may qualify under this subsection if it meets the minimum capital and surplus requirements in (1) of this subsection and maintains in the United States an irrevocable trust fund in either a national bank or a member of the Federal Reserve system, in an amount not less than \$1,500,000 [THAT REQUIRED AS MINIMUM CAPITAL AND SURPLUS IN (1) OF THIS SUBSECTION], for the protection of all its policyholders in the United States; the trust fund must [SHALL] consist of instruments of substantially the same character and

Chapter 29

1 quality as those that are eligible investments for the capital and
2 statutory reserves of admitted insurers authorized to write like kinds
3 of insurance in this state or of irrevocable letters of credit; the
4 trust fund must [FUNDS SHALL] have an expiry date that at no time is
5 less than five years;

6 (3) a Lloyd's or other similar unincorporated group of
7 alien individual insurers may qualify if it maintains a trust fund of
8 not less than \$50,000,000 as security to the full amount, for all
9 policyholders and creditors in the United States, of each member of
10 the group;

11 (4) an "insurance exchange" created by the laws of indi-
12 vidual states may qualify if it maintains capital and surplus, or the
13 substantial equivalent, of not less than \$15,000,000 in the aggregate;
14 in the event the insurance exchange does not maintain funds for the
15 protection of all its policyholders, each individual syndicate shall
16 meet the minimum capital and surplus requirements of (1) of this
17 subsection.

18 * Sec. 32. AS 21.36.210(a) is amended to read:

19 (a) An insurer may not exercise its right to cancel a policy of
20 personal [AN] automobile insurance [POLICY] except for the following
21 reasons:

22 (1) nonpayment of premium; or

23 (2) the driver's license or motor vehicle registration of
24 either the named insured or of an operator who resides in the same
25 household as the named insured or who customarily operates a motor
26 vehicle insured under the policy has been under suspension or revoca-
27 tion during the policy period or, if the policy is a renewal, during
28 its policy period or the 180 days immediately preceding its effective
29 date.

* Sec. 33. AS 21.36.210(d) is amended to read:

(d) This section does not apply to

(1) the failure to renew a policy, except as to coverage in force for less than 12 months;

(2) a policy that has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer, unless it is a renewal policy.

* Sec. 34. AS 21.36.210(f) is amended to read:

(f) An [NOTWITHSTANDING (e) OF THIS SECTION, AN] insurer may not exercise its right to cancel a policy of personal insurance other than personal automobile insurance, except for the following reasons [THE TYPE DESCRIBED IN (e) OF THIS SECTION IF ONE OF THE FOLLOWING CONDITIONS OR CIRCUMSTANCES ARISES]:

(1) nonpayment of premiums, including nonpayment of additional premiums, calculated in accordance with the current rating manual of the insurer, justified by a physical change in the insured property or a change in its occupancy or use;

(2) conviction of the insured of a crime having as one of its necessary elements an act increasing a hazard insured against;

(3) discovery of fraud or material misrepresentation made by the insured or a representative of the insured in obtaining the insurance or by the insured in pursuing a claim under the policy;

(4) discovery of a grossly negligent act or omission by the insured that substantially increases the hazards insured against; or

(5) physical changes in the insured property that result in the property becoming uninsurable.

* Sec. 35. AS 21.36.220 is amended to read:

Sec. 21.36.220. NOTICE OF CANCELLATION. An insurer may not exercise its right to cancel a personal insurance policy unless a

Chapter 29

1 written notice of cancellation is mailed [OR DELIVERED] to the named
2 insured as required by AS 21.36.260 [, AT THE ADDRESS SHOWN IN THE
3 POLICY,] at least 30 [20] days before the effective date of cancella-
4 tion. However, if [, EXCEPT THAT WHEN] cancellation is for nonpayment
5 of premium, the notice shall be mailed [OR DELIVERED] to the named
6 insured as required by AS 21.36.260 [AT THE ADDRESS SHOWN IN THE
7 POLICY] at least 20 [10] days before the effective date of cancella-
8 tion. If cancellation is for a reason described in AS 21.36.210(a)(2)
9 or (f)(2) or (3), the notice shall be mailed to the named insured as
10 required by AS 21.36.260 at least 10 days before the effective date of
11 cancellation [AND SHALL INCLUDE OR BE ACCOMPANIED BY A STATEMENT OF
12 THE REASON FOR THE CANCELLATION. THIS SECTION DOES NOT APPLY TO THE
13 FAILURE TO RENEW A POLICY, EXCEPT AS TO COVERAGE IN FORCE FOR LESS
14 THAN 12 MONTHS].

15 * Sec. 36. AS 21.36.220 is amended by adding new subsections to read:

16 (b) An insurer may not exercise its right to cancel a policy of
17 business or commercial insurance unless a written notice of cancella-
18 tion is mailed to the named insured as required by AS 21.36.260 and to
19 the agent or broker of record at least 60 days before the effective
20 date of cancellation. However, if cancellation is for nonpayment of
21 premium, or for failure or refusal of the insured to provide the
22 information necessary to confirm exposure or necessary to determine
23 the policy premium, the notice shall be mailed to the named insured as
24 required by AS 21.36.260 and to the agent or broker of record at least
25 20 days before the effective date of cancellation. If cancellation is
26 (1) for conviction of the insured of a crime having as one of its
27 necessary elements an act increasing a hazard insured against, or (2)
28 for discovery of fraud or material misrepresentation made by the
29 insured or a representative of the insured in obtaining the insurance

or by the insured in pursuing a claim under the policy, the notice shall be mailed to the named insured as required by AS 21.36.260 and to the agent or broker of record at least 10 days before the effective date of cancellation.

(c) If an insurer cancels a policy under this section, it shall return or credit any unearned premium to the agent or broker of record or directly to the insured or premium finance company, if applicable, before the effective date of cancellation, except that

(1) an unearned premium shall be returned or credited within 30 days after notice of cancellation is given, if cancellation is for

(A) nonpayment of premium, including nonpayment of additional premiums, calculated in accordance with the current rating manual of the insurer, justified by a physical change in the insured property, a change in its occupancy or use, or a change in payroll, receipts, values, or other exposure units;

(B) conviction of the insured of a crime having as one of its necessary elements an act increasing a hazard insured against;

(C) discovery of fraud or material misrepresentation made by the insured or a representative of the insured in obtaining the insurance or by the insured in pursuing a claim under the policy;

(D) failure or refusal of the insured to provide the information necessary to confirm exposure or necessary to determine the policy premium;

(E) a reason described in AS 21.36.210(a)(2);

(2) the insurer shall perform or waive the audit before the effective date of the cancellation and return or credit any estimated unearned premium before the effective date of cancellation if the

Chapter 29

1 policy is subject to audit and is canceled for a reason other than
2 those described in (1)(A) - (D) of this subsection.

3 (d) The division may require an insurer to perform an audit that
4 the insurer has elected to waive under (c) of this section.

5 (e) A notice of cancellation of insurance required to be given
6 under this section must include or be accompanied by a statement of
7 the reason for the cancellation.

8 * Sec. 37. AS 21.36 is amended by adding a new section to read:

9 Sec. 21.36.235. NOTICE OF PREMIUM OR COVERAGE CHANGES UPON
10 RENEWAL. (a) Except as provided in AS 21.36.420, if the renewal
11 premium is increased more than 10 percent for a reason other than an
12 increase in coverage or exposure base, or if after renewal there will
13 be a material restriction or reduction in coverage not specifically
14 requested by the insured, written notice shall be mailed to the
15 insured and to the agent or broker of record as required by AS 21.36.-
16 260

17 (1) at least 20 days before expiration of a personal insur-
18 ance policy; or

19 (2) at least 45 days before expiration of a business or
20 commercial policy.

21 (b) If notice before expiration of the policy is not given as
22 required by (a) of this section, the existing policy shall continue
23 until the insurer provides notice for the time period required by (a)
24 of this section for that policy.

25 (c) This section does not apply to workers' compensation insur-
26 ance.

27 * Sec. 38. AS 21.36.240 is amended to read:

28 Sec. 21.36.240. FAILURE TO RENEW. An insurer may not fail to
29 renew a personal insurance policy in force for less than 12 months.

An insurer may not fail to renew a policy [IN FORCE FOR 12 MONTHS OR MORE] unless a written notice of nonrenewal is mailed [OR DELIVERED] to the named insured as required by AS 21.36.260 [, AT THE ADDRESS SHOWN IN THE POLICY,] at least 20 days for a personal insurance policy, and at least 45 days for a business or commercial insurance policy, before the expiration date of the policy [,] or of the anniversary date of a policy written for a term longer than one year or with no fixed expiration date. If notice of nonrenewal is not given as required by this section, the existing policy shall continue until the insurer provides notice for the time period required by this section for that policy. This section does not apply

(1) if the insurer has in good faith manifested [IN ANY WAY] its willingness to renew;

(2) in case of nonpayment of premium for the expiring policy; or

(3) if the insured fails to pay the premium as required by the insurer for renewal.

* Sec. 39. AS 21.36.250 is amended to read:

Sec. 21.36.250. NOTICE OF ELIGIBILITY. When a policy of automobile liability insurance is cancelled, other than for nonpayment of premium, or is not renewed in accordance with [FOR FAILURE TO RENEW A POLICY OF AUTOMOBILE LIABILITY INSURANCE TO WHICH] AS 21.36.240 [APPLIES], the insurer shall notify the named insured of possible eligibility for automobile insurance through the automobile assigned risk plan, or automobile insurance plan. The notification must [SHALL] accompany or be included in the notice of cancellation or nonrenewal required by AS 21.36.220 [AS 21.36.230] and 21.36.240.

* Sec. 40. AS 21.36 is amended by adding a new section to read:

Sec. 21.36.255. PREMIUM REFUND. (a) If an insurance policy is

Chapter 29

cancelled, rejected, or rescinded by the

(1) insurer, the insurer shall refund the unearned premium paid to the insured or premium finance company; or

(2) insured, the insurer shall return any unearned premium paid to the insured or premium finance company, less a cancellation fee not to exceed 7.5 percent of the unearned premium; a cancellation fee may not be charged unless the fee is clearly stated in the policy.

(b) Notwithstanding (a) of this section, if the insurer clearly indicates one or more of the following features in the policy, an insurer may issue a policy

(1) whose premium is earned at a varying rate due to seasonality of exposure;

(2) that contains a minimum earned premium; or

(3) with a fluctuating premium base.

* Sec. 41. AS 21.36.260 is repealed and reenacted to read:

Sec. 21.36.260. PROOF AND METHOD OF MAILING NOTICE. If a notice is required from an insurer under this chapter, the insurer shall

(1) mail the notice by first class mail to the last known address of the insured; and

(2) obtain a certificate of mailing from the U.S. Postal Service.

* Sec. 42. AS 21.36.310 is amended to read:

Sec. 21.36.310. DEFINITIONS. In AS 21.36.210 - 21.36.310

(1) "business or commercial insurance" means insurance other than personal insurance, reinsurance, life insurance, disability insurance, fidelity and surety insurance, title insurance, wet marine and transportation insurance as defined in AS 21.34.900, or an annuity contract;

(2) "nonpayment of premium" means failure of the named

insured to discharge when due any obligations of the named insured in connection with the payment of premium on a policy, or any installment of the premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit;

(3) "personal automobile insurance" means insurance not related to business or commercial activities, covering [(2) "POLICY" MEANS AN INSURANCE POLICY COVERING THE RISKS AND EXPOSURES LISTED IN AS 21.36.210(e) OR AN AUTOMOBILE POLICY THAT INCLUDES] automobile liability, uninsured or underinsured motorists [COVERAGE, UNINSURED MOTORIST COVERAGE], automobile medical payments [COVERAGE], or automobile physical damage [COVERAGE], that is delivered or issued for delivery in this state [INSURING AS THE NAMED INSURED, ONE INDIVIDUAL OR HUSBAND AND WIFE RESIDENT OF THE SAME HOUSEHOLD], and under which the insured vehicles are of the following types only:

(A) a motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance, nor rented to others; or

(B) any other four-wheel motor vehicle with a load capacity of 1,500 pounds or less that is not used in the occupation, profession, or business of the insured, nor used as a public or livery conveyance, nor rented to others;

(4) "personal insurance"

(A) means personal automobile insurance, or insurance covering

(i) loss of or damage to real property that is used predominantly for residential purposes and that does not consist of more than four dwelling units;

(ii) loss of or damage to personal property,

Chapter 29

1 including personal effects, household furniture, fixtures
2 and equipment located in not more than four dwelling units;

3 or

4 (iii) legal liability of natural persons for loss
5 of, damage to, or injury to persons or property if the
6 insurance does not cover liability arising from or in con-
7 nection with business or commercial activities;

8 (B) does not include an annuity contract or a policy
9 of life insurance, disability insurance, or title insurance;

10 (5) [(3)] "renewal" or "renew" means

11 (A) the issuance and delivery [BY AN INSURER] of an
12 insurance [A] policy [REPLACING] at the end of the policy period,
13 that replaces a policy previously issued and delivered by the
14 same insurer; [,]

15 (B) the issuance and delivery of a certificate or
16 notice extending the term of a policy beyond its policy period or
17 term; [,] or

18 (C) the extension of the term of a policy beyond its
19 policy period or term under a provision for extending the policy
20 by payment of a continuation premium.

21 * Sec. 43. AS 21.84.430(c) is amended to read:

22 (c) The director may refuse to issue or may suspend or revoke
23 [RENEW] an insurance agent's license if, in the judgment of the direc-
24 tor, the proposed licensee is not trustworthy and competent to act as
25 agent, or has given cause for revocation or suspension of the license,
26 or has failed to comply with a prerequisite for the issuance [OR
27 RENEWAL, AS THE CASE MAY BE,] of the license.

28 * Sec. 44. AS 21.88.050 is amended to read:

29 Sec. 21.88.050. POWERS AND DUTIES OF THE CORPORATION. (a) The

corporation shall

(1) in the form approved by the director, issue to all physicians, nurses, and hospitals who are found to be acceptable risks under standards developed under (5) of this subsection, and who pay the premiums for it, a contract or contracts indemnifying physicians, nurses, and hospitals and their employees who are health care providers against loss by reason of liability for covered claims for an act or omission in the delivery of professional health care in this state, and agreeing to tender on behalf of the physicians, nurses, and hospitals and their employees who are health care providers a defense to a covered claim in a proceeding brought under AS 09.55.530 - 09.55.-560; the limits of liability for policies issued by the corporation shall be approved by the director; the contract shall cover the defense against but need not indemnify liability for punitive damages arising from a covered claim; at the option of the corporation, if approved by the director, and for an additional premium the contract may cover claims against the physician, nurse, or hospital that arise out of professional services performed by the physician, nurse, or hospital for any period before the contract is issued, except that coverage will not be provided for a claim already filed or that [OF WHICH] the physician, nurse, or hospital had or reasonably should have had notice at the time the retroactive insurance was purchased;

(2) charge a premium for the protection provided by the contracts issued by the corporation which shall be determined by the board of governors in accordance with AS 21.88.080 and subject to the approval of the director;

(3) comply with or be subject to AS 21.06.090, 21.06.120, 21.06.140, 21.06.160, 21.06.250, AS 21.09.180 - 21.09.200, 21.09.250, 21.09.280, AS 21.12.020(b)-(e), AS 21.18, AS 21.21, AS 21.24 and

Chapter 29

1 AS 21.36; and shall be exempt from participation as a member insurer
2 in the Alaska Insurance Guaranty Corporation;

3 (4) carry out the obligations of the contracts issued by
4 the corporation by defending all covered claims made against insured
5 health care providers and by paying all liabilities that [WHICH] are
6 finally adjudicated against the insured health care provider or that
7 [WHICH] may in the opinion of the corporation reasonably be expected
8 to be finally adjudicated against the health care provider to the
9 extent of the contract obligation;

10 (5) establish standards for the acceptability of risks; in
11 establishing these standards the corporation may exclude an applicant
12 for insurance based on individual risk selection factors, but may not
13 exclude an applicant based only on the classification of the appli-
14 cant.

15 (b) The corporation may

16 (1) employ or retain persons, individual or corporate, to
17 discharge its obligations and pay reasonable compensation for these
18 services; employees of the corporation are not considered state em-
19 ployees;

20 (2) negotiate for and procure reinsurance from private
21 casualty insurers or reinsurers for any and all liability incurred by
22 contracts issued by it;

23 (3) provide coverage to insureds for other hazards custom-
24 arily included in medical malpractice insurance policies when there is
25 a finding by the director that this coverage is not available to
26 insureds of the Medical Indemnity Corporation of Alaska in the private
27 insurance market at a competitive price;

28 (4) borrow or advance funds necessary to carry out the
29 purposes of the corporation;

(5) negotiate and become a party to those contracts as are necessary to carry out the purposes of the corporation;

(6) sue or be sued in the name of the corporation;

(7) provide risk management advice and services to hospitals;

(8) negotiate and become a party to contracts for management services for the corporation;

(9) perform all other acts necessary and proper to carry out the duties of the corporation;

(10) in a form approved by the director and for an additional premium determined under AS 21.88.080, issue endorsements which provide indemnity for claims not yet reported which arise out of professional services rendered during a period of continuous coverage under the originally issued contract, to physicians, nurses, and hospitals who pay the premium for it and who are terminating their original covered claims contract with the corporation for a period of not less than one year;

(11) subject to approval by the director, extend coverage to a person, entity, or facility that renders health care services in the state under the supervision of a physician.

* Sec. 45. AS 21.90.900 is amended to read:

Sec. 21.90.900. DEFINITIONS FOR TITLE. In this title, unless the context requires otherwise,

(1) "adjuster" means a person who, for compensation as an independent contractor or as an employee of an independent contractor, or for fee or commission, investigates and adjusts claims arising under insurance contracts on behalf of the insurer, but does not include an attorney at law who adjusts insurance losses from time to time incidental to the practice of law or a salaried employee of an

Chapter 29

1 insurer;

2 (2) "agent" means a person appointed by an insurer to
3 solicit applications for insurance or annuities on its behalf, and if
4 authorized to do so, to effectuate and countersign insurance con-
5 tracts, except life or disability insurance or annuities, and to
6 collect premiums on insurance or annuities;

7 (3) "alien insurer" means an insurer formed under the laws
8 of a country other than the United States of America, its states,
9 districts, territories, and commonwealths;

10 (4) [(2)] "authorized insurer" means an insurer authorized
11 by a [SUBSISTING] certificate of authority issued by the director to
12 transact insurance in this state;

13 (5) "broker" means a person who is not an agent of the
14 insurer and who, on behalf of the insured, for compensation as an
15 independent contractor by commission or fee, solicits, negotiates, or
16 procures insurance or reinsurance or the renewal or continuance of
17 insurance or reinsurance; or in any manner aids in the solicitation,
18 negotiation, procurement, renewal, or continuance of insurance or
19 reinsurance, for insureds or prospective insureds not including the
20 broker;

21 (6) [(3)] "commissioner" means the commissioner of the
22 Department of Commerce and Economic Development;

23 (7) [(4)] "court" means superior court;

24 (8) [(5)] "director" means the director of the division of
25 insurance;

26 (9) [(6)] "division" means the division of insurance,
27 Department of Commerce and Economic Development;

28 (10) [(7)] "domestic insurer" means an insurer formed under
29 the laws of this state;

(11) "firm" means an organization of two or more licensees acting in association with each other, either in a partnership, corporation, or otherwise, or an organization in which a single licensee has less than 50 percent ownership interest in the organization;

(12) [(8)] "foreign insurer" means an insurer formed under the laws of a jurisdiction other than this state and includes an alien insurer;

(13) "independent adjuster" means an adjuster representing the interests of the insurer;

(14) [(9)] "industrial life insurance" means that form of life insurance written under policies with a face amount of \$1,000 or less, with the words "industrial policy" imprinted on the face as part of the descriptive matter, and under which premiums are payable monthly or more often;

(15) [(10)] "insurance" means a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies;

(16) [(11)] "insurer" includes a person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance or of annuity;

(17) [(12)] "person" has the meaning given in AS 01.10.060 and includes an insurer, Lloyd's, fraternal benefit society, medical service or hospital service plan as defined in AS 21.87, reciprocal or interinsurance exchange, syndicate, and any other legal entity engaged in the business of transacting insurance, including agents, brokers, and claims adjusters;

(18) [(13)] "policy" means the written contract of or written agreement for or effecting insurance, by whatever name called, and includes all clauses, riders, endorsements and papers attached to it

Chapter 29

1 and a part of it;

2 (19) [(14)] "premium" means the consideration for insurance
3 by whatever name called, and by whatever method paid or collected
4 including an assessment, or membership, policy, survey, inspection,
5 service or similar fee or charge made in consideration for an
6 insurance contract;

7 (20) "solicitor" means an individual authorized by an agent
8 or broker to solicit applications for insurance as a representative of
9 the agent or broker and to collect premiums in connection with the
10 insurance;

11 (21) [(15)] "state" means a state, District of Columbia,
12 territory, commonwealth, or possession of the United States of
13 America;

14 (22) [(16)] "transact" with respect to insurance includes

15 (A) solicitation and inducement;

16 (B) preliminary negotiations;

17 (C) effectuation of a contract of insurance;

18 (D) transaction of matters subsequent to effectuation
19 of the contract of insurance and arising out of it;

20 (23) [(17)] "unauthorized insurer" means an insurer not
21 authorized to transact insurance in this state.

22 * Sec. 46. AS 21.90 is amended by adding a new section to read:

23 Sec. 21.90.910. EXCEPTIONS FROM DEFINITIONS. The definitions of
24 "adjuster," "agent," "broker," "firm," and "solicitor" in AS 21.90.900
25 do not include

26 (1) individuals employed and used by agents for the perfor-
27 mance of clerical, stenographic, and similar office duties; incidental
28 taking of an application for insurance from time to time in the office
29 of the employing agent if the employee's compensation is not contin-

gent upon or related to the volume of applications, insurance, or premiums;

(2) the attorney-in-fact of a reciprocal insurer, or the salaried traveling representative of a reciprocal or mutual insurer not compensated on a commission basis.

* Sec. 47. AS 21.03.030, 21.03.040, 21.03.050; AS 21.06.040; AS 21.27.-040(b), 21.27.470, 21.27.480, 21.27.490, 21.27.500, 21.27.510, 21.27.520; AS 21.36.210(c), 21.36.210(e), 21.36.230, and 21.36.300 are repealed.

* Sec. 48. AS 21.09.210(c) is repealed July 1, 1989.

* Sec. 49. Sections 1 - 30 and 32 - 47 of this Act apply to insurance policies entered into or renewed on or after the effective date of secs. 1 - 30 and 32 - 47 of this Act.

* Sec. 50. Section 31 of this Act takes effect immediately under AS 01.10.070(c).