

**HOUSE BILL NO. 398**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVE HARRIS**

**Introduced: 2/16/00**

**Referred: Labor and Commerce, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

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

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

3 \* **Section 1.** AS 21.79.010 is repealed and reenacted to read:

4           **Sec. 21.79.010. Purpose.** The purpose of this chapter is to protect, subject to  
5 certain limitations, the persons specified in AS 21.79.020(a) against failure in the  
6 performance of contractual obligations under life insurance and health insurance  
7 policies and annuity contracts specified in AS 21.79.020(b) because of the impairment  
8 or insolvency of the member insurer that issued the policies or contracts. To provide  
9 this protection, an association of insurers is created under AS 21.79.040 to pay benefits  
10 and continue coverages as limited by this chapter, and members of the association are  
11 subject to assessment to provide funds to carry out the purpose of this chapter.

12 \* **Sec. 2.** AS 21.79.020(a) is amended to read:

13           (a) This chapter applies to a policy and contract specified in (b) of this section  
14 and to a person who

15                           (1) except for a nonresident certificate holder under a group policy or

1 contract, is the beneficiary, assignee, or payee of a person described in (2) of this  
2 subsection; and

3 (2) **except in the case of an unallocated annuity contract or a**  
4 **structured settlement annuity,** is the owner of, or a certificate holder under, the  
5 policy or contract, [OR, IN THE CASE OF AN UNALLOCATED ANNUITY  
6 CONTRACT, IS THE CONTRACT HOLDER,] and who

7 (A) is a resident; [,] or

8 (B) is not a resident, if the following conditions are satisfied:

9 (i) the insurer that issued the policy or contract is  
10 domiciled in this state;

11 (ii) [THE INSURER NEVER HELD A LICENSE OR  
12 CERTIFICATE OF AUTHORITY IN THE STATE IN WHICH THE  
13 PERSON RESIDES;

14 (iii)] the state in which the person resides has an  
15 association similar to the association created by this chapter; and

16 **(iii) [(iv)] the person is not eligible for coverage by an**  
17 **association in any other state due to the fact that the insurer was**  
18 **not licensed at the time required by law in that state** [OF THE  
19 ASSOCIATION OF THE STATE IN WHICH THE PERSON  
20 RESIDES].

21 \* **Sec. 3.** AS 21.79.020(c) is amended to read:

22 (c) This chapter does not apply to

23 (1) that part of a policy or contract that is not guaranteed by the  
24 insurer;

25 (2) that part of the risk borne by the policy or contract holder;

26 (3) a policy or contract of reinsurance, unless an assumption certificate  
27 has been issued;

28 (4) that part of a policy or contract **to the extent that** [ON WHICH]  
29 the rate of interest **on which it is based, or the interest rate, crediting rate, or**  
30 **similar factor determined by use of an index or other external reference stated in**  
31 **the policy or contract employed in calculating returns or changes in value,**

1 (A) averaged over the period of four years before the date on  
 2 which the association becomes obligated with respect to the policy or contract  
 3 [,] exceeds a rate of interest determined by subtracting two percentage points  
 4 from the published monthly average for that same four-year period or for a  
 5 lesser period if the policy or contract was issued less than four years before the  
 6 association became obligated, **whichever is earlier**; and

7 (B) on and after the date on which the association becomes  
 8 obligated with respect to the policy or contract, **whichever is earlier**, exceeds  
 9 the rate of interest determined by subtracting three percentage points from the  
 10 most recent published monthly average;

11 (5) a plan or program of an employer, association, or similar entity to  
 12 provide life, health, or an annuity benefit to an employee or member, to the extent that  
 13 the plan or program is self-funded or uninsured, including a benefit payable by the  
 14 employer, association, or similar entity under

15 (A) a multiple employer welfare arrangement as defined in **29**  
 16 **U.S.C. 1002** [26 U.S.C. 414] (Employee Retirement Income Security Act of  
 17 1974);

18 (B) a minimum premium group insurance plan;

19 (C) a stop-loss group insurance plan; or

20 (D) an administrative services only contract;

21 (6) that part of a policy or contract that provides a dividend or  
 22 experience rating credit **or voting rights**, or provides that a fee or allowance be paid  
 23 to a person, including the policy or contract holder, in connection with the service to  
 24 or administration of the policy or contract; [AND]

25 (7) a policy or contract issued in this state by a member insurer at a  
 26 time when it was not licensed or did not have a certificate of authority to issue the  
 27 policy or contract in this state;

28 **(8) a person who is a payee or beneficiary of a contract holder who**  
 29 **is a resident of this state if the payee or beneficiary is provided coverage by the**  
 30 **association of another state;**

31 **(9) a person covered under (e) of this section if any coverage is**

1 provided by the association of another state to that person;

2 (10) an unallocated annuity contract issued to or in connection with  
 3 a plan protected under the United States Pension Benefit Guaranty Corporation,  
 4 regardless of whether the United States Pension Benefit Guaranty Corporation  
 5 has become liable to make any payments with respect to the benefit plan;

6 (11) that part of an unallocated annuity contract that is not issued  
 7 to or in connection with a specific employee, union, or association of natural  
 8 persons benefit plan or a government lottery;

9 (12) that part of a policy or contract to the extent that assessments  
 10 required by AS 21.79.070 with respect to the policy or contract are preempted by  
 11 law;

12 (13) an obligation that does not arise under the express written  
 13 terms of the policy or contract issued by the insurer to the contract owner or  
 14 policy owner, including, without limitation,

15 (A) a claim based on marketing materials;

16 (B) a claim based on a side letter, rider, or other document  
 17 that was issued by the insurer without meeting applicable policy form  
 18 filing or approval requirements;

19 (C) a misrepresentation of or regarding policy benefits;

20 (D) an extra contractual claim; or

21 (E) a claim for penalties or consequential or incidental  
 22 damages;

23 (14) a contractual agreement that establishes the member insurer's  
 24 obligations to provide a book value accounting guaranty for defined contribution  
 25 benefit plan participants by reference to a portfolio of assets that is owned by the  
 26 benefit plan or its trustee, which, in each case, is not an affiliate of the member  
 27 insurer; or

28 (15) that part of a policy or contract to the extent the part of the  
 29 policy or contract provides for interest or other changes in value to be determined  
 30 by the use of an index or other external reference stated in the policy or contract,  
 31 but that have not been credited to the policy or contract, or as to which the policy

1 or contract owner's rights are subject to forfeiture, as of the date the member  
 2 insurer becomes an impaired or insolvent insurer under this chapter, whichever  
 3 is earlier; if a policy's or contract's interest or changes in value are credited less  
 4 frequently than annually, then, for purposes of determining the values that have  
 5 been credited and are not subject to forfeiture under this paragraph, the interest  
 6 or change in value determined by using the procedures defined in the policy or  
 7 contract shall be credited as if the contractual date of crediting interest or  
 8 changing values was the date of impairment or insolvency, whichever is earlier,  
 9 and will not be subject to forfeiture.

10 \* **Sec. 4.** AS 21.79.020 is amended by adding new subsections to read:

11 (e) This chapter, except for (a) of this section, applies to an unallocated  
 12 annuity contract specified under (b) of this section, and shall provide coverage to a  
 13 person who is the owner of

14 (1) the unallocated annuity contract if the contract is issued to or in  
 15 connection with a specific benefit plan whose plan sponsor has its principal place of  
 16 business in this state; and

17 (2) an unallocated annuity contract issued to or in connection with a  
 18 government lottery if the owner is a resident.

19 (f) This chapter, except for (a) of this section, applies to a structured settlement  
 20 annuity specified under (b) of this section, and shall provide coverage to a person who  
 21 is a payee under a structured settlement annuity, or the beneficiary of a payee if the  
 22 payee is deceased, if the payee is

23 (1) a resident, regardless of where the contract owner resides; or

24 (2) not a resident, but only if both of the following conditions exists:

25 (A) the contract owner of the structured settlement annuity is

26 (i) a resident; or

27 (ii) not a resident, but the insurer that issued the  
 28 structured settlement annuity is domiciled in this state, and the state in  
 29 which the contract owner resides has an association similar to the  
 30 association created by this chapter; and

31 (B) the payee, or the payee's beneficiary, and the contract owner

1 are not eligible for coverage by the association of the state in which the payee  
2 or contract owner resides.

3 \* **Sec. 5.** AS 21.79.025 is amended to read:

4 **Sec. 21.79.025. Liability limits.** The benefits for which the association may  
5 become liable may not exceed the lesser of

6 (1) the contractual obligations for which the insurer is liable or would  
7 have been liable if it were not an impaired or insolvent insurer;

8 (2) with respect to any one life, regardless of the number of policies  
9 or contracts, [AND SUBJECT TO AN AGGREGATE OF \$300,000,]

10 (A) \$300,000 in life insurance death benefits, but not more than  
11 \$100,000 in net cash surrender and net cash withdrawal values for life  
12 insurance;

13 (B) [\$100,000] in health insurance benefits,

14 (i) \$100,000 for coverage not defined as disability  
15 insurance or basic hospital, medical, and surgical insurance or  
16 major medical insurance, including any net cash surrender and net  
17 cash withdrawal values;

18 (ii) \$300,000 for disability insurance;

19 (iii) \$500,000 for basic hospital, medical, and surgical  
20 insurance or major medical insurance;

21 (C) \$100,000 in the present value of annuity benefits, including  
22 net cash surrender and net cash withdrawal values; [OR]

23 (3) with respect to any one contract holder or plan sponsor whose  
24 plan owns directly or in trust one or more unallocated annuity contracts not  
25 included in (4) of this subsection, \$5,000,000 in unallocated annuity contract benefits,  
26 irrespective of the number of contracts held by that contract holder or plan sponsor  
27 except that, in the case of one or more unallocated annuity contracts that are  
28 covered under this chapter and that are owned by a trust or other entity for the  
29 benefit of two or more plan sponsors, coverage shall be provided by the  
30 association if the largest interest in the trust or entity owning the contract is held  
31 by a plan sponsor whose principal place of business is in this state; however, the

1 association is not liable to cover more than \$5,000,000 in benefits with respect to  
 2 an unallocated annuity contract not included in (4) of this subsection;

3 (4) with respect to an individual participating in a governmental  
 4 retirement benefit plan established under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26  
 5 U.S.C. 457 and covered by an unallocated annuity contract, or to a beneficiary of  
 6 the individual if the individual is deceased, in the aggregate, \$100,000 in present-  
 7 value annuity benefits, including net cash surrender and net cash withdrawal  
 8 values;

9 (5) with respect to each payee of a structured settlement annuity,  
 10 or beneficiary of the payee if the payee is deceased,\$100,000 in present-value  
 11 annuity benefits in the aggregate, including net cash surrender and net cash  
 12 withdrawal values, if any; or

13 (6) in no event

14 (A) an aggregate of \$300,000 in benefits with respect to any  
 15 one life under (2) of this subsection, except that, with respect to benefits  
 16 for basic hospital, medical, and surgical insurance or major medical  
 17 insurance under (2)(B) of this subsection, the aggregate liability of the  
 18 association may not exceed \$500,000 for any one individual; or

19 (B) \$5,000,000 in benefits with respect to one owner or  
 20 multiple nongroup policies of life insurance, whether the policy owner is  
 21 an individual, firm, corporation, or other person, and whether the persons  
 22 insured are officers, managers, employees, or other persons, regardless of  
 23 the number of policies and contracts held by the owner.

24 \* **Sec. 6.** AS 21.79.025 is amended by adding new subsections to read:

25 (b) The limitations imposed under this section are limitations on the benefits  
 26 for which the association is obligated before taking into account either its subrogation  
 27 and assignment rights or the extent to which those benefits could be provided out of  
 28 the assets of an impaired or insolvent insurer attributable to covered policies. The  
 29 costs of the association's obligations under this chapter may be met by the use of  
 30 assets attributable to covered policies or reimbursed to the association under its  
 31 subrogation and assignment rights.

1 (c) In providing coverage required under AS 21.79.060, the association may  
 2 not be required to guarantee, assume, reinsure, or perform, or cause to be guaranteed,  
 3 assumed, reinsured, or performed, the contractual obligations of an insolvent or  
 4 impaired insurer under a covered policy or contract when the obligations do not  
 5 materially affect the economic values or economic benefits of the covered policy or  
 6 contract.

7 \* **Sec. 7.** AS 21.79.030 is amended to read:

8 **Sec. 21.79.030. Construction.** This chapter shall be [LIBERALLY] construed  
 9 to achieve the purposes set out in AS 21.79.010.

10 \* **Sec. 8.** AS 21.79.030 is amended by adding a new subsection to read:

11 (b) This chapter is intended to provide coverage to a person who is a resident  
 12 of this state and, in special circumstances, to a nonresident. In order to avoid duplicate  
 13 coverage, if a person who would otherwise receive coverage under this chapter is  
 14 provided coverage under the law of any other state, the person may not be provided  
 15 coverage under this chapter. In determining the application of the provisions of this  
 16 subsection, in situations where a person could be covered by the association of more  
 17 than one state, whether as an owner, payee, beneficiary, or assignee, this chapter shall  
 18 be construed in conjunction with other state laws to result in coverage by only one  
 19 association.

20 \* **Sec. 9.** AS 21.79.040(a) is amended to read:

21 (a) There is established as a nonprofit legal entity the Alaska Life and Health  
 22 Insurance Guaranty Association. An insurer that issues an insurance policy described  
 23 in AS 21.79.020(b) shall be a member of the association as a condition of the insurer's  
 24 authority to transact insurance in this state. The association shall perform its functions  
 25 under a plan of operation established and approved under AS 21.79.080 and shall  
 26 exercise its powers through the Board of Governors established under AS 21.79.050.  
 27 For purposes of administration and assessment, the association shall maintain the  
 28 following accounts:

29 (1) the health insurance account; and

30 (2) the life insurance and annuity account, including the following  
 31 subaccounts:

1 (A) life insurance account;

2 (B) annuity account that must include annuity contracts  
 3 owned by a governmental retirement benefit plan, or its trustee, qualified  
 4 under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26 U.S.C. 457 (Internal Revenue  
 5 Code), but that otherwise excludes unallocated annuities;

6 (C) unallocated annuity account that must exclude [SHALL  
 7 INCLUDE] contracts owned by a governmental retirement benefit plan, or  
 8 its trustee, qualified under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26 U.S.C. 457  
 9 (Internal Revenue Code).

10 \* **Sec. 10.** AS 21.79.050(a) is amended to read:

11 (a) The Board of Governors of the association consists of not less than five nor  
 12 more than nine representatives of member insurers. The director may appoint two  
 13 individuals as members of the board to represent the public. Terms of office for  
 14 board members shall be established in the plan of operation submitted under  
 15 AS 21.79.080. Member insurers shall select the insurer board members, subject to the  
 16 approval of the director. A vacancy in a board membership held by an insurer  
 17 member [ON THE BOARD] shall be filled for the unexpired term by a majority vote  
 18 of the remaining board members, subject to the approval of the director. A vacancy  
 19 in a board membership held by a representative of the public shall be filled by  
 20 the director. A board member who represents the public may not be an officer,  
 21 director, or employee of an insurer and may not be engaged in the business of  
 22 insurance.

23 \* **Sec. 11.** AS 21.79.050(b) is amended to read:

24 (b) Before the director approves the selection of an insurer [A] board member  
 25 or appoints an insurer [A] board member, the director shall consider whether all  
 26 member insurers are fairly represented on the board.

27 \* **Sec. 12.** AS 21.79.060(a) is amended to read:

28 (a) If a member [DOMESTIC] insurer becomes impaired, the association may,  
 29 with the approval of the director and subject to any conditions imposed by the  
 30 association that do not impair the contractual obligations of the impaired insurer,

31 (1) guarantee, assume, reinsure, or provide for the guarantee,

1 assumption, or reinsurance of the policies or contracts of the impaired insurer; **or**

2 (2) provide money, pledges, notes, guarantees, or other means that are  
3 necessary to act under (1) of this subsection and to assure payment of the contractual  
4 obligations of the impaired insurer until those obligations are guaranteed, reinsured,  
5 or assumed [; OR

6 (3) LOAN MONEY TO THE IMPAIRED INSURER].

7 \* **Sec. 13.** AS 21.79.060(c) is amended to read:

8 (c) The actions specified in **(a)** [(b)] of this section may not be taken unless

9 (1) the law of the impaired insurer's state of domicile provides that until  
10 all payments of or on account of a contractual obligation of the impaired insurer by  
11 a guaranty association, along with all expenses and interest on all payments and  
12 expenses, have been repaid to the guaranty association or a repayment plan by the  
13 impaired insurer has been approved by a guaranty association,

14 (A) a delinquency proceeding may not be dismissed;

15 (B) neither the impaired insurer nor its assets may be returned  
16 to the control of its shareholders or private management; and

17 (C) solicitation or acceptance of new business or restoration of  
18 a suspended or revoked license may not be permitted; and

19 (2) if the impaired insurer is a

20 (A) domestic insurer, the insurer has been placed under an order  
21 of rehabilitation by a superior court in this state; or

22 (B) foreign or alien insurer,

23 (i) the insurer has been prohibited from soliciting or  
24 accepting new business in this state;

25 (ii) the insurer's certificate of authority has been  
26 suspended or revoked in this state; and

27 (iii) a petition for rehabilitation or liquidation has been  
28 filed in a court of competent jurisdiction in the insurer's state of domicile by  
29 the insurance commissioner of that state.

30 \* **Sec. 14.** AS 21.79.060(d) is amended to read:

31 (d) If a member insurer becomes insolvent, the association shall, **in its**

1 **discretion and** with the approval of the director,

2 (1) guarantee, assume, reinsure, or provide for the guarantee,  
3 assumption, or reinsurance of the covered policies of the insolvent insurer held by  
4 residents;

5 (2) assure payment to residents of the contractual obligations of the  
6 insolvent insurer;

7 (3) provide money, pledges, notes, guarantees, or other means necessary  
8 to discharge the insurer's duties under this subsection; or

9 (4) with respect only to life and health insurance policies **and**  
10 **annuities**, provide benefits and coverages required under (e) of this section.

11 \* **Sec. 15.** AS 21.79.060(e) is amended to read:

12 (e) When proceeding under [(b)(2) OR] (d)(4) of this section, the association  
13 shall, with respect to a life or health insurance policy **and an annuity**,

14 (1) assure payment of benefits, other than terms of conversion and  
15 renewability, for a premium identical to the premium that would have been payable  
16 under a policy of the insolvent insurer for claims incurred with respect to

17 (A) a group policy, not later than the earlier of the next renewal  
18 date under the policy or contract or 45 days, but in no event less than 30 days,  
19 after the date on which the association becomes obligated with respect to the  
20 policy;

21 (B) an individual policy, not later than the earlier of the next  
22 renewal date, if any, under the policy or one year, but in no event less than 30  
23 days, from the date on which the association becomes obligated with respect  
24 to the policy;

25 (2) make a diligent effort to provide a known insured or a group  
26 policyholder, with respect to a group policy, 30 days notice of the termination of the  
27 benefits provided;

28 (3) with respect to an individual policy, make available to each known  
29 insured, or owner if other than the insured, and with respect to an individual formerly  
30 insured under a group policy who is not eligible for replacement group coverage,  
31 substitute coverage on an individual basis under the provisions of (f) of this section,

1 if the insured had a right under law or the terminated policy to convert coverage to  
 2 individual coverage, to continue an individual policy in force until a specified age, or  
 3 for a specific time during which the insurer did not have the unilateral right to make  
 4 changes in any provision of the policy or had a right only to make changes in premium  
 5 by class.

6 \* **Sec. 16.** AS 21.79.060(h) is amended to read:

7 (h) If the association elects to reissue terminated coverage at a premium rate  
 8 different from that charged under the terminated policy, the premium shall be set by  
 9 the association according to the amount of insurance provided **and** [,] the age and class  
 10 of risk, and is subject to the approval of the **domiciliary insurance commissioner and**  
 11 **the receivership** [DIRECTOR OR BY A] court [OF COMPETENT JURISDICTION].

12 \* **Sec. 17.** AS 21.79.060(j) is amended to read:

13 (j) When proceeding under [(b)(2) OR] (d) of this section with respect to a  
 14 policy or contract carrying guaranteed minimum interest rates, the association shall  
 15 assure the payment or crediting of a rate of interest consistent with AS 21.79.020(c)(4).

16 \* **Sec. 18.** AS 21.79.060(n) is amended to read:

17 (n) In carrying out its duties under **(a)** [(b)], (c), and (d) of this section, the  
 18 association may impose a permanent policy or contract lien under a guarantee,  
 19 assumption, or reinsurance agreement [,] if the policy or contract lien is approved by  
 20 a court [,] and the **association** [COURT] finds that

21 (1) the amount that may be assessed under this chapter is less than the  
 22 amount needed to assure full and prompt performance of the insolvent insurer's  
 23 contractual obligations; or

24 (2) the economic or financial condition that affects member insurers is  
 25 sufficiently adverse that the imposition of a policy or contract lien is in the public  
 26 interest.

27 \* **Sec. 19.** AS 21.79.060(o) is amended to read:

28 (o) Before taking action under **(a) - (e)** [(b) - (e)] of this section, the  
 29 association may request the superior court to impose an injunction against the payment  
 30 of a cash value and policy loan, or the exercise of another right to withdraw funds held  
 31 in connection with a policy or contract, in addition to a contractual provision for

1 deferral of a cash or policy loan value. **In addition, if the receivership court**  
 2 **imposes an injunction on payment of cash values or policy loans or on any other**  
 3 **right to withdraw funds of an impaired or insolvent insurer held in conjunction**  
 4 **with a policy or contract, the association may defer payment of cash values, policy**  
 5 **loans, or other rights for the period of the injunction, except for claims covered**  
 6 **by the association to be paid as required by a hardship procedure established by**  
 7 **the liquidator or rehabilitator and approved by the receivership court.**

8 \* Sec. 20. AS 21.79.060(p) is amended to read:

9 (p) If the association fails to take action under **(a) - (e)** [(b) - (e)] of this  
 10 section within a reasonable period of time after a member insurer becomes insolvent,  
 11 the director shall assume the powers of the association under **(a) - (e)** [(b) - (e)] of this  
 12 section.

13 \* Sec. 21. AS 21.79.060(r) is amended to read:

14 (r) The association is entitled to appear in a court **or agency** proceeding in **this**  
 15 [THE] state involving an impaired or insolvent insurer **that the association is or may**  
 16 **be obligated to or involving a person or property against which the association**  
 17 **may have rights.** The standing conferred by this subsection extends to all matters  
 18 germane to the powers and duties of the association, including proposals to reinsure  
 19 or guarantee a covered policy of the impaired or insolvent insurer and the  
 20 determination of a covered policy and a contractual obligation. **The association also**  
 21 **has the right to appear or intervene before a court or agency in another state in**  
 22 **a proceeding involving an impaired or insolvent insurer that the association is or**  
 23 **may be obligated to or involving a person or property against which the**  
 24 **association may have rights.**

25 \* Sec. 22. AS 21.79.060(s) is amended to read:

26 (s) A person who receives benefits under this chapter is considered to have  
 27 assigned the rights under, **and any cause of action against a person for losses**  
 28 **arising under, resulting from, or otherwise relating to,** the covered policy to the  
 29 association to the extent of the benefits received under this chapter, **whether the**  
 30 **benefits are payment of or on account of contractual obligations, continuations of**  
 31 **coverage, or provisions of substitute or alternative coverage.** The association may

1 require an assignment to the association of those rights by the payees, policy or  
 2 contract owner, beneficiary, insured, or annuitant before a person receives the rights  
 3 or benefits conferred by this chapter. [THE ASSOCIATION IS SUBROGATED TO  
 4 THESE RIGHTS AGAINST THE ASSETS OF AN INSOLVENT INSURER.] The  
 5 priority of the association's subrogation right to the assets of the insolvent insurer is  
 6 the same as the priority of the person entitled to benefits under this chapter. **In**  
 7 **addition to the rights described in this subsection, the association has common law**  
 8 **rights of subrogation and any other equitable or legal remedy that would have**  
 9 **been available to the impaired or insolvent insurer or owner, beneficiary, or payee**  
 10 **of a policy with respect to the policy. These rights include, in the case of a**  
 11 **structured settlement annuity, the rights of the owner, beneficiary, or payee of the**  
 12 **annuity, to the extent of benefits received under this chapter, against a person**  
 13 **originally or by succession responsible for the losses arising from the personal**  
 14 **injury relating to the annuity or annuity payment, except for a person responsible**  
 15 **solely by reason of being an assignee in respect to a qualified assignment under**  
 16 **26 U.S.C. 130 (Internal Revenue Code). If the provisions of this subsection are**  
 17 **invalid with respect to a person or claim, the amount payable by the association**  
 18 **with respect to the related coverage obligation shall be reduced by the amount**  
 19 **realized by another person from the person or claim covered by the association.**  
 20 **If the association has provided benefits with respect to a covered obligation and**  
 21 **a person recovers amounts to which the association has rights as described in this**  
 22 **subsection, the person recovering the amounts shall pay to the association the**  
 23 **portion of the recovery attributable to the policy covered by the association.**

24 \* Sec. 23. AS 21.79.060(t) is amended to read:

25 (t) **In addition to the rights and powers otherwise established in this**  
 26 **chapter, the** [THE] association may

27 (1) enter into contracts that are necessary or proper to carry out the  
 28 provisions of this chapter;

29 (2) sue or be sued, and take legal action necessary or proper for  
 30 recovery of an unpaid assessment under AS 21.79.070 **or settlement of a claim or**  
 31 **potential claim;**

1 (3) borrow money to carry out the purposes of this chapter; **notes or**  
 2 **other evidence of indebtedness of the association not in default are legal**  
 3 **investments for domestic insurers and may be carried as admitted assets;**

4 (4) employ or retain those persons necessary to handle the financial  
 5 transactions of the association and other functions under this chapter;

6 (5) negotiate and contract with a liquidator, rehabilitator, conservator,  
 7 or ancillary receiver to carry out the powers and duties of the association;

8 (6) exercise, for the purposes of this chapter and to the extent approved  
 9 by the director, the powers of a domestic life or health insurer; however, the  
 10 association may not issue insurance policies or annuity contracts other than those  
 11 issued to perform the contractual obligations of an impaired or insolvent insurer;

12 (7) take legal action to prevent the payment of improper claims;

13 (8) join an organization of one or more other state associations with  
 14 similar purposes; [AND]

15 (9) **determine, using reasonable business judgment, the means by**  
 16 **which the association is to provide the benefits of this chapter in an economical**  
 17 **and efficient manner;**

18 **(10) request information from a person seeking coverage from the**  
 19 **association in order to determine the obligations of the association under this**  
 20 **chapter; a person receiving a request under this paragraph shall promptly comply**  
 21 **with the request;**

22 **(11) request information from a member insurer in order to aid in**  
 23 **the exercise of a power under this section; a member insurer receiving a request**  
 24 **under this paragraph shall promptly comply with the request; and**

25 **(12)** perform all other acts necessary or proper to implement this  
 26 chapter.

27 \* **Sec. 24.** AS 21.79.060 is amended by adding new subsections to read:

28 (u) At any time within one year after the date with the association becomes  
 29 responsible for the obligations of a member insurer, the association may elect to  
 30 succeed to the rights and obligations of the member insurer that accrue on or after that  
 31 date and that relate to contracts covered, in whole or in part, by the association, under

1 one or more indemnity reinsurance agreements entered into by the member insurer as  
2 a ceding insurer and selected by the association. However, the association may not  
3 exercise an election with respect to a reinsurance agreement if the receiver,  
4 rehabilitator, or liquidator of the member insurer has previously and expressly  
5 disaffirmed the reinsurance agreement. The election shall be made by a notice to the  
6 receiver, rehabilitator, or liquidator and to the affected reinsurer. If the association  
7 makes an election, the following paragraphs apply with respect to the agreement  
8 selected by the association:

9 (1) the association is responsible for all unpaid premiums due under the  
10 agreement for periods both before and after the coverage date, and shall be responsible  
11 for the performance of all other obligations to be performed after the coverage date in  
12 each case that relates to contracts covered, in whole or in part, by the association; the  
13 association may, through reasonable allocation methods, charge contracts covered in  
14 part by the association for the costs for reinsurance in excess of the obligations of the  
15 association;

16 (2) the association is entitled to any amounts payable by the reinsurer  
17 under the agreement with respect to losses or events that occur in periods after the  
18 coverage date and that related to the contracts covered by the association, in whole or  
19 in part, except that, upon receipt of any amounts, the association shall pay to the  
20 beneficiary under the policy or contract on account of which the amounts were paid  
21 a portion of the amount equal to the amount received by the association less

22 (A) the benefits paid by the association on account of the policy  
23 or contract; and

24 (B) the retention of the impaired or insolvent member insurer  
25 applicable to the loss or event;

26 (3) within 30 days after the association's election, the association and  
27 each indemnity reinsurer shall calculate the net balance due to or from the association  
28 under each reinsurance agreement as of the date of the association's election; the  
29 calculation shall give full credit to all items paid by either the member insurer, its  
30 receiver, rehabilitator, or liquidator, or the indemnity reinsurer during the period  
31 between the coverage date and the date of the association's election; either the

1 association or the indemnity reinsurer shall pay the net balance due the other within  
2 five days of the completion of the calculation described in this paragraph; if the  
3 receiver, rehabilitator, or liquidator has received any amounts due to the association  
4 under (2) of this subsection, the receiver, rehabilitator, or liquidator shall remit the  
5 same to the association as promptly as practicable; and

6 (4) if the association, within 60 days of the election, pays the premiums  
7 due for periods both before and after the coverage date that relate to the contracts  
8 covered by the association, in whole or in part, the reinsurer may not terminate the  
9 reinsurance agreement to the extent the agreement relates to contracts covered by the  
10 association, in whole or in part, and may not set off any unpaid premium due for the  
11 periods before the coverage date against amounts due to the association.

12 (v) In the event the association transfers its obligations to another insurer, and  
13 if the association and the other insurer agree, the other insurer shall succeed to the  
14 rights and obligations of the association under (u) of this section, effective as of the  
15 date agreed upon by the association and the other insurer. The other insurer shall  
16 succeed regardless of whether the association has made the election referred to in (u)  
17 of this section if (1) the indemnity reinsurance agreement automatically terminates  
18 former reinsurance unless the indemnity reinsurer and the other insurer agree to the  
19 contrary, and (2) the obligations described in (u)(2) of this section no longer apply on  
20 and after the date the indemnity reinsurance agreement is transferred to the third-party  
21 insurer. This subsection does not apply if the association has previously expressly  
22 determined in writing that it will not exercise the election referred to in (u) of this  
23 section.

24 (w) The provisions of this section apply notwithstanding any other provisions  
25 of law or any provisions of an affected reinsurance agreement that provide for or  
26 require a payment of reinsurance proceeds, on account of losses or events that occur  
27 in periods after the coverage date, to the receiver, liquidator, or rehabilitator of the  
28 insolvent member insurer. The receiver, liquidator, or rehabilitator remains entitled to  
29 any amounts payable by the reinsurer under the reinsurance agreement with respect to  
30 losses or events that occur in periods before the coverage date, subject to applicable  
31 setoff provisions.

1 (x) Except as otherwise expressly provided in this section, nothing in this  
 2 section alters or modifies the terms and conditions of indemnity reinsurance  
 3 agreements of an insolvent member insurer. Nothing in this section

4 (1) abrogates or limits the right of a reinsurer to claim that the reinsurer  
 5 is entitled to rescind a reinsurance agreement; or

6 (2) gives a policy owner or beneficiary an independent cause of action  
 7 against an indemnity reinsurer that is not otherwise established in the indemnity  
 8 reinsurance agreement.

9 (y) When the association has arranged or offered to provide the benefits of this  
 10 chapter to a covered person under a plan or arrangement that fulfills the association's  
 11 obligations under this chapter, the covered person is not entitled to benefits from the  
 12 association in addition to or other than those provided under the plan or arrangement.

13 \* **Sec. 25.** AS 21.79.070(b) is amended to read:

14 (b) There shall be two assessments as follows:

15 (1) class A assessments shall be **authorized and called** [MADE] for  
 16 the purpose of meeting administrative and legal costs and other expenses and  
 17 examinations conducted under the authority of AS 21.79.060; class A assessments may  
 18 be **authorized and called** [MADE] whether or not related to a particular impaired or  
 19 insolvent insurer;

20 (2) class B assessments are post assessment charges and shall be  
 21 **authorized and called** [MADE] only as necessary to carry out the powers and duties  
 22 of the association with regard to an impaired or an insolvent insurer.

23 \* **Sec. 26.** AS 21.79.070(c) is amended to read:

24 (c) The amount of a class A assessment shall be determined by the board and  
 25 may be made on a pro rata or **non pro** [NONPRO] rata basis. If a pro rata assessment  
 26 is made, the board may provide that it be credited against future class B assessments.  
 27 A **non pro** [NONPRO] rata assessment may not exceed **\$150** [\$250] per member  
 28 insurer in a calendar year. The amount of a class B assessment shall be allocated for  
 29 assessment purposes among the accounts under an allocation formula that may be  
 30 based on the premiums or reserves of the impaired or insolvent insurer or by another  
 31 standard determined by the board **in its sole discretion** as being fair and reasonable

1 under the circumstances.

2 \* **Sec. 27.** AS 21.79.070(d) is amended to read:

3 (d) Class B assessments shall be based on the premiums received on business  
4 in this state by each assessed member insurer on [OR FOR] policies or contracts  
5 covered by each account in proportion to the premiums received on business in this  
6 state by all assessed member insurers during the three calendar years preceding the  
7 year in which the insolvency or impairment occurred.

8 \* **Sec. 28.** AS 21.79.070(e) is amended to read:

9 (e) The association may abate or defer, in whole or in part, the assessment of  
10 a member insurer if, in the opinion of the board, a payment of the assessment would  
11 endanger the ability of the member insurer to fulfill its contractual obligations. The  
12 amount by which an assessment against a member insurer is abated or deferred may  
13 be assessed against the other member insurers in a manner consistent with the basis  
14 for assessments set forth in (c) of this section. Once the conditions that caused a  
15 deferral are removed or rectified, the member insurer shall pay all assessments  
16 that were deferred under a repayment plan approved by the association.

17 \* **Sec. 29.** AS 21.79.070(f) is amended to read:

18 (f) Except as provided in this subsection, the [THE] total of all assessments  
19 on a member insurer for each subaccount of the life and annuity account and for the  
20 health account [EACH SUBACCOUNT] may not in any one calendar year exceed  
21 two percent of the insurer's average annual premiums received in this state on a  
22 policy or contract covered by the account or subaccount during the three calendar  
23 years preceding the year in which the insurer became an impaired or insolvent  
24 insurer. The total of all assessments on a member insurer for the health account may  
25 not in any one calendar year exceed two percent of the insurer's average premiums  
26 received in this state on a policy or contract covered by the account during the three  
27 calendar years preceding the year in which the insurer became an impaired or insolvent  
28 insurer. If two or more assessments are authorized in one calendar year with  
29 respect to insurers that become impaired or insolvent in different calendar years,  
30 the average annual premiums for purposes of the aggregate assessment percentage  
31 limitation imposed under this subsection shall be limited to the highest of the

1 average annual premiums during the preceding three calendar years for the  
 2 applicable subaccount or account as calculated under this section. If the maximum  
 3 assessment, together with the other assets of the association in an account, does not  
 4 provide in any one year in either account an amount sufficient to carry out the  
 5 responsibilities of the association, the necessary additional funds shall be assessed as  
 6 soon as permitted by this chapter.

7 \* **Sec. 30.** AS 21.79.070(h) is amended to read:

8 (h) If the maximum [A ONE PERCENT] assessment for a subaccount of the  
 9 life and annuity account in any one year does not provide an amount sufficient to carry  
 10 out the responsibilities of the association, the board shall, as provided under (d) of this  
 11 section, access [ASSESS] all subaccounts of the life and annuity account for the  
 12 necessary additional amount, subject to the assessment limit provided in (f) of this  
 13 section.

14 \* **Sec. 31.** AS 21.79.070 is amended by adding new subsections to read:

15 (i) Assessments for funds to meet the requirements of the association with  
 16 respect to an impaired or insolvent insurer may not be authorized or called until  
 17 necessary to implement the purposes of this chapter. Classification of assessments  
 18 under (b) of this section and computation of assessments under this section shall be  
 19 made with a reasonable degree of accuracy, recognizing that exact determinations may  
 20 not always be possible. The association shall notify each member insurer of its  
 21 anticipated pro rata share of an authorized assessment not yet called within 180 days  
 22 after the assessment is authorized.

23 (j) The board may, by an equitable method as established in the plan of  
 24 operation, refund to member insurers, in proportion to the contribution of each insurer  
 25 to that account, the amount by which the assets of the account exceed the amount the  
 26 board finds is necessary to carry out during the coming year the obligations of the  
 27 association with regard to that account, including assets accruing from assignment,  
 28 subrogation, net realized gains, and income from investments. A reasonable amount  
 29 may be retained in any account to provide funds for the continuing expenses of the  
 30 association and for future losses claims.

31 (k) A member insurer may, in determining its premium rates and policy owner

1 dividends as to any kind of insurance within the scope of this chapter, consider the  
2 amount reasonably necessary to meet its assessment obligations under this chapter.

3 (l) The association shall issue to each insurer paying an assessment under this  
4 section, other than a Class A assessment, a certificate of contribution, in a form  
5 prescribed by the director, for the amount of the assessment. All outstanding  
6 certificates shall be of equal dignity and priority without reference to amounts or dates  
7 of issue. A certificate of contribution may be shown by the insurer in its financial  
8 statement as an asset in a form and for an amount, if any, and period of time that the  
9 director may approve.

10 (m) A member insurer that wishes to protest all or part of an assessment shall  
11 pay when due the full amount of the assessment as set out in the notice provided by  
12 the association. The payment shall be available to meet association obligations during  
13 the pendency of the protest or any subsequent appeal. If a payment is made under  
14 protest, payment must be accompanied by a statement in writing that the payment is  
15 made under protest and setting out a brief statement of the grounds for the protest.  
16 Within 60 days following the payment of an assessment under protest by a member  
17 insurer, the association shall notify the member insurer in writing of its determination  
18 with respect to the protest unless the association notifies the member insurer that  
19 additional time is required to resolve the issues raised by the protest. Within 30 days  
20 after a final decision has been made, the association shall notify the protesting member  
21 insurer in writing of that final decision. Within 60 days of receipt of notice of the  
22 final decision, the protesting member insurer may appeal that final action to the  
23 director. In the alternative to rendering a final decision with respect to a protest based  
24 on a question regarding the assessment base, the association may refer protests to the  
25 director for a final decision with or without recommendation from the association. If  
26 a protest or appeal on an assessment is upheld, the amount paid in error or excess shall  
27 be returned to the member company. Interest on a refund due a protesting member  
28 shall be paid at the rate actually earned by the association.

29 \* **Sec. 32.** AS 21.79.080(a) is amended to read:

30 (a) The association shall submit to the director a plan of operation and any  
31 amendments to assure the fair, reasonable, and equitable administration of the

1 association. The plan of operation and any amendments take effect on the written  
 2 approval of the plan by the director **or 30 days after receipt by the director if not**  
 3 **disapproved by the director.**

4 \* **Sec. 33.** AS 21.79.080(b) is amended to read:

5 (b) **If** [NOTWITHSTANDING (a) OF THIS SECTION, IF THE  
 6 ASSOCIATION FAILS TO SUBMIT A PLAN OF OPERATION ACCEPTABLE TO  
 7 THE DIRECTOR BY JULY 1, 1991, OR IF AT A LATER TIME] the association  
 8 fails to submit suitable amendments to the plan, the director shall, after notice and  
 9 hearing, adopt regulations to implement this chapter. These regulations remain in  
 10 effect until amended or repealed by the director [OR SUPERSEDED BY A PLAN  
 11 SUBMITTED BY THE ASSOCIATION THAT IS APPROVED BY THE  
 12 DIRECTOR].

13 \* **Sec. 34.** AS 21.79.080(c) is amended to read:

14 (c) A member insurer shall comply with the plan of operation. The plan of  
 15 operation must

16 (1) establish procedures for handling assets of the association;

17 (2) establish the amount and method of reimbursing members of the  
 18 board under AS 21.79.050(c);

19 (3) establish regular places and times for meetings of the board in the  
 20 state; **the board may conduct meetings telephonically;**

21 (4) establish procedures for keeping records of all financial transactions  
 22 of the association, its agents, and the board;

23 (5) establish terms of office for members of the board, and establish  
 24 procedures for the selection of the members of the board and for the director's approval  
 25 of the members selected;

26 (6) establish additional procedures for assessments under AS 21.79.070;  
 27 and

28 (7) contain additional provisions necessary or proper for the association  
 29 to exercise its powers and duties.

30 \* **Sec. 35.** AS 21.79.100(f) is amended to read:

31 (f) The board **may** [SHALL]

1 (1) make reports and recommendations to the director relating to the  
 2 solvency, liquidation, rehabilitation, or conservation of a member insurer or the  
 3 solvency of insurers who apply to transact insurance business in the state; the director  
 4 and the board shall keep the reports and recommendations confidential;

5 (2) notify the director of any information that indicates that a member  
 6 insurer may be impaired or insolvent.

7 \* **Sec. 36.** AS 21.79.110(b) is amended to read:

8 (b) The association shall keep records of [NEGOTIATIONS AND] meetings  
 9 relating to its activities. Records of [NEGOTIATIONS OR] meetings may only be  
 10 made public under AS 21.79.040(b)

11 (1) after the termination of a liquidation, rehabilitation, or conservation  
 12 proceeding that involves the impaired or insolvent insurer;

13 (2) after the insurer is no longer impaired or insolvent; or

14 (3) upon the order of a court of competent jurisdiction.

15 \* **Sec. 37.** AS 21.79.110(c) is amended to read:

16 (c) The association is considered to be a creditor of the impaired or insolvent  
 17 insurer to the extent of assets attributable to covered policies that are reduced by an  
 18 amount to which the association is entitled under AS 21.79.060(s). Assets of the  
 19 impaired or insolvent insurer that are attributable to covered policies shall be used to  
 20 continue all covered policies and pay all contractual obligations of the impaired or  
 21 insolvent insurer as required by this chapter. Assets attributable to covered policies  
 22 include those assets that should have been established as reserves for the covered  
 23 policies. These assets are determined by multiplying the total assets of the impaired  
 24 or insolvent insurer by a fraction, the numerator of which is the amount that should  
 25 have been established as reserves for the covered policies of the impaired or insolvent  
 26 insurer, and the denominator of which is the amount that should have been established  
 27 as reserves for all policies of insurance issued in all states by that insurer. **As a**  
 28 **creditor of the impaired or insolvent insurer, the association and other similar**  
 29 **entities in other states are entitled to receive a disbursement of assets out of the**  
 30 **marshaled assets as a credit against contractual obligations under this chapter**  
 31 **from time to time as the assets become available. If the liquidator has not, within**

1        **120 days of the date of a final determination of insolvency of an insurer by the**  
 2        **court, made an application to the court for the approval of a proposal to disburse**  
 3        **assets, the association may make application to the court for the approval of the**  
 4        **association's proposal to disburse assets.**

5        \* **Sec. 38.** AS 21.79.110 is amended by adding new subsections to read:

6                (f) A deposit in this state, held by law or required by the director for the  
 7        benefit of creditors, including policy owners, not turned over to the domiciliary  
 8        liquidator upon the entry of a final order of liquidation or order approving a  
 9        rehabilitation plan of an insurer domiciled in this state or in a reciprocal state shall  
 10       be promptly paid to the association. The association

11                (1) is entitled to retain a portion of any amount paid to it equal to the  
 12       percentage determined by dividing the aggregate amount of policy owners' claims  
 13       related to that insolvency for which the association has provided statutory benefits by  
 14       the aggregate amount of all policy owners' claims in this state related to that  
 15       insolvency; and

16                (2) shall remit to the domiciliary receiver the amount paid to the  
 17       association and retained under (1) of this subsection; any amount paid to the  
 18       association less the amount retained by it under (1) of this subsection shall be treated  
 19       as a distribution of state assets under AS 21.78.294 or a similar provision of the state  
 20       of domicile of the impaired or insolvent insurer.

21                (g) The association may not be required to give an appeal bond in an appeal  
 22       of a civil action arising under this chapter.

23       \* **Sec. 39.** AS 21.79.120 is amended to read:

24                **Sec. 21.79.120. Examination of the association, annual report.** The  
 25       association may be examined by the director. The board shall submit to the director,  
 26       not later than **July** [MAY] 1 of each year, a certified financial report for the preceding  
 27       calendar year in a form approved by the director and a report of its activities during  
 28       the preceding calendar year. Nothing in AS 21.79.110(b) limits the duty of the  
 29       association to report under this section. **Upon request, the association shall provide**  
 30       **a copy of the report to a member insurer.**

31       \* **Sec. 40.** AS 21.79.140 is amended to read:

1           **Sec. 21.79.140. Civil immunity.** The association and its agents and  
 2 employees, members of the Board of Governors, and the director and the director's  
 3 representatives are not civilly liable for action taken by them to perform duties under  
 4 this chapter. **In this section, "duties" includes participation in an organization of**  
 5 **one or more state associations of life or health insurers.**

6 \* **Sec. 41.** AS 21.79.150 is repealed and reenacted to read:

7           **Sec. 21.79.150. Stay of proceedings; default judgment.** Proceedings  
 8 involving an impaired or insolvent insurer shall be stayed at least 60 days after the  
 9 date of a final order of liquidation, rehabilitation, or conservation in order to allow the  
 10 association to exercise a power or duty authorized under this chapter. If a default  
 11 judgment is entered against an impaired or insolvent insurer, the association may apply  
 12 to have the judgment set aside or may defend against the action on its merits.

13 \* **Sec. 42.** AS 21.79 is amended by adding a new section to read:

14           **Sec. 21.79.160. Prohibited advertisement of insurance sales; required**  
 15 **notice.** (a) A person, including an insurer, agent, or affiliate of an insurer, may not  
 16 make, publish, disseminate, circulate, or place before the public, or cause, directly or  
 17 indirectly, to be made, published, disseminated, circulated, or placed before the public,  
 18 in any newspaper, magazine, or other publication, or in the form of a notice, circular,  
 19 pamphlet, letter, or poster, or over any radio station or television station, or in any  
 20 other way, an advertisement, announcement, or statement, written or oral, that uses the  
 21 existence of the association for the purpose of sales, solicitation, or inducement to  
 22 purchase any form of insurance covered by the association. However, this section does  
 23 not apply to the association or any other entity that does not sell or solicit insurance.

24           (b) The association shall prepare a summary document describing the general  
 25 purposes and current limitations of this chapter and complying with (c) of this section.  
 26 This document shall be submitted to the director for approval. Beginning 60 days after  
 27 the date on which the director approves the document, an insurer may not deliver a  
 28 policy or contract to a policy or contract owner unless the summary document is  
 29 delivered to the policy or contract owner at the time of delivery of the policy or  
 30 contract. The document shall also be available upon request by a policy owner. The  
 31 distribution, delivery, contents, or interpretation of this document does not guarantee

1 that either the policy or the contract, or the owner of the policy or contract, is covered  
 2 in the event of the impairment or insolvency of a member insurer. The description  
 3 document shall be revised by the association as amendments to this chapter may  
 4 require. Failure to receive this document does not give the policy owner, contract  
 5 owner, certificate holder, or insured any greater rights than those stated in this chapter.

6 (c) The document prepared under (b) of this section must contain a clear and  
 7 conspicuous disclaimer on its face. The director shall establish the form and content  
 8 of the disclaimer. The disclaimer must

9 (1) state the name and address of the association and the division of  
 10 insurance;

11 (2) prominently warn the policy or contract owner that the association  
 12 may not cover the policy or, if coverage is available, that the policy will be subject to  
 13 substantial limitations and exclusions and conditioned on continued residence in this  
 14 state;

15 (3) state the types of policies for which guaranty funds will provide  
 16 coverage;

17 (4) state that the insurer and its agents are prohibited by law from using  
 18 the existence of the association for the purpose of sales, solicitation, or inducement to  
 19 purchase any form of insurance;

20 (5) state that the policy or contract owner should not rely on coverage  
 21 under the association when selecting and insurer;

22 (6) explain rights available and procedures for filing a complaint to  
 23 allege a violation of a provision of this chapter; and

24 (7) provide other information as required by the director, including  
 25 sources for information about the financial condition of insurers if the information is  
 26 not proprietary and is subject by law to disclosure.

27 (d) A member insurer shall retain evidence of compliance with (b) of this  
 28 section for so long as the policy or contract for which the notice is given remains in  
 29 effect.

30 \* **Sec. 43.** AS 21.79.900(6) is amended to read:

31 (6) "member insurer" means an insurer licensed to transact insurance

1 in the state that issues a policy described in AS 21.79.020(a) and (b), or a subscriber  
 2 contract providing benefits described in AS 21.87.120(a)(2) - (4) or 21.87.130(a)(2)  
 3 and (3), and includes an insurer whose license or certificate of authority in this state  
 4 may have been suspended, revoked, not renewed, or voluntarily withdrawn; "member  
 5 insurer" does not include

6 (A) a health maintenance organization licensed under AS 21.86;

7 (B) a fraternal benefit society licensed under AS 21.84;

8 (C) a mandatory state pooling plan;

9 (D) a mutual assessment company or an entity that operates on  
 10 an assessment basis;

11 (E) an insurance exchange licensed under AS 21.75; [OR]

12 (F) a [NONPROFIT] hospital or medical service organization  
 13 licensed under AS 21.87;

14 **(G) an organization that has a license or certificate limited**  
 15 **to the issuance of charitable gift annuities; or**

16 **(H) an entity similar to one described under (A) - (G) of this**  
 17 **paragraph;**

18 \* **Sec. 44.** AS 21.79.900 is amended by adding new paragraphs to read:

19 (12) "authorized assessment" means an assessment approved by a  
 20 resolution by the board that will be called immediately or in the future from member  
 21 insurers for a specified amount;

22 (13) "called" means that a notice has been issued by the association to  
 23 member insurers requiring that an authorized assessment be paid within the time set  
 24 out in the notice;

25 (14) "impaired insurer" means a member insurer that is not an insolvent  
 26 insurer and that is placed under an order of rehabilitation or conservation by a court  
 27 of competent jurisdiction;

28 (15) "insolvent insurer" means a member insurer that is placed under  
 29 an order of liquidation by a court of competent jurisdiction with a finding of  
 30 insolvency;

31 (16) "owner," in relation to a policy or contract,

1 (A) means the person who is identified as the legal owner under  
 2 the terms of the policy or contract who is otherwise vested with legal title to  
 3 the policy or contract through a valid assignment completed under the terms of  
 4 the policy or contract and who is properly recorded as the owner on the records  
 5 of the insurer;

6 (B) does not include a person with a mere beneficial interest in  
 7 a policy or contract;

8 (17) "plan sponsor" means, in the case of a benefit plan established or  
 9 maintained by

10 (A) a single employer, the employer;

11 (B) an employee organization, the employee organization; or

12 (C) two or more employers or jointly by one or more employers  
 13 and one or more employee organizations, the association, committee, joint  
 14 board of trustees, or other group of representatives of the parties who establish  
 15 or maintain the benefit plan;

16 (18) "receivership court" means the court in the insolvent or impaired  
 17 insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation  
 18 of the insurer;

19 (19) "structured settlement annuity" means an annuity purchased in  
 20 order to fund periodic payments for a plaintiff or other claimant in payment for or with  
 21 respect to personal injury suffered by the plaintiff or other claimant;

22 (20) "state" means a state of the United States, the District of  
 23 Columbia, Puerto Rico, or a United States possession, territory, or protectorate.

24 \* **Sec. 45.** AS 21.36.035, AS 21.79.060(b), 21.79.100(g), and 21.79.100(i) are repealed.

25 \* **Sec. 46.** The uncodified law of the State of Alaska is amended by adding a new section  
 26 to read:

27 **TRANSITIONAL PROVISIONS.** The terms of the members of the board of governors  
 28 of the Alaska Life and Health Insurance Guaranty Association who are serving on the  
 29 effective date of this Act are not affected by this Act. Their terms expire as provided before  
 30 the enactment of this Act.