

CS FOR HOUSE BILL NO. 184(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/26/01

Referred: Judiciary

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to insurance; amending Rule 402, Alaska Rules of Evidence; and**
2 **providing for an effective date."**

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 PURPOSE. The primary purpose of this Act is to implement insurance reforms in
7 AS 21 as required by P.L. 106-102 (Gramm-Leach-Bliley Act) to modernize financial
8 services related to the business of insurance and to further this state as an attractive place for
9 investment and other commerce involving the insurance industry.

10 * **Sec. 2.** AS 21.27.010(e) is repealed and reenacted to read:

11 (e) An employee of an insurer who responds to requests from existing
12 policyholders on existing policies is not required to be licensed under this section if
13 the employee

14 (1) is not directly compensated based on volume of premiums that may

1 result from those services; and

2 (2) does not transact insurance.

3 * **Sec. 3.** AS 21.27.010(j) is amended to read

4 (j) This section does not apply to a person who

5 (1) is employed on salary or hourly wage by a person licensed under
6 this section solely for the performance of accounting, clerical, stenographic, and
7 similar office duties;

8 (2) only secures and forwards information required for the purposes of,

9 **and does not receive a commission for, any of the following services:**

10 **(A) performing administrative services related to**

11 **(i) group life insurance;**

12 **(ii) group property and casualty insurance;**

13 **(iii) group annuities;**

14 **(iv) group or blanket accident and health insurance;**

15 **(B) enrolling individuals under plans for the types of**
16 **insurance or annuities specified in (A) of this paragraph;**

17 **(C) issuing certificates under plans for the types of**
18 **insurance or annuities specified in (A) of this paragraph, or otherwise**
19 **assisting in administering those plans;**

20 **(D) performing administrative services related to mass-**
21 **marketed property and casualty insurance** [COVERING THE UNPAID
22 BALANCE, OR REMAINING PAYMENTS PROPOSED TO BE MADE, IN
23 CONNECTION WITH THE PURCHASE OF MERCHANDISE OR
24 SERVICES, IF THE PERSON RECEIVES NO COMPENSATION,
25 DIRECTLY OR INDIRECTLY, ARISING OUT OF OR IN ANY WAY
26 RELATING TO THE INSURANCE TRANSACTIONS]; [OR]

27 (3) is employed on salary by a licensee at the licensee's place of
28 business, is supervised by and reports directly to a licensee in the firm, and who, after
29 explaining that the matter must be reviewed by a licensee, may

30 (A) furnish premium estimates from published or printed lists
31 of standard rates if the person does not advise, counsel, or suggest what

1 coverage may be needed, or otherwise solicit insurance coverage;

2 (B) arrange appointments for a licensee if the person does not
3 solicit insurance coverage;

4 (C) record information from an applicant or policyholder and
5 complete for the licensee's personal review and signature, a certificate of
6 insurance that is not a contract of insurance; the licensee's signature may be by
7 facsimile;

8 (D) inform a policyholder of the type of coverage shown in the
9 licensee's policy record if the person does not advise that an event or
10 hypothetical event is or is not covered; or

11 (E) in the physical presence of the licensee, record information
12 from an applicant or policyholder and complete for a licensee's personal
13 review and personal signature, applications, binders, endorsements, or
14 identification cards if the person discloses to the applicant or policyholder that
15 the applicant or policyholder may review the matter with a licensee;

16 **(4) is an employee of an insurer or an organization employed by an**
17 **insurer and is engaged in the inspection, rating, or classification of risks, or in the**
18 **supervision of the training of insurance producers and is not individually**
19 **engaged in the sale, solicitation, or negotiation of insurance;**

20 **(5) advertises in this state through printed publications or**
21 **electronic mass media, the distribution of which is not limited to residents of this**
22 **state, if the person**

23 **(A) performs no other insurance-related activities in this**
24 **state;**

25 **(B) does not intend to solicit in this state; and**

26 **(C) does not sell, solicit, or negotiate insurance of risks**
27 **resident, located, or to be performed in this state;**

28 **(6) is not a resident of this state, but sells, solicits, or negotiates**
29 **commercial property and casualty insurance for an insured with risks located in**
30 **more than one state if the person is licensed as an insurance producer in the state**
31 **where the insured maintains its principal place of business and the contract of**

1 insurance covers risks located in that state;

2 (7) is a salaried full-time employee who counsels or advises the
 3 person's employer regarding the insurance interests of the employer or of the
 4 subsidiaries or business affiliates of the employer, if the employee does not sell or
 5 solicit insurance or receive a commission from the sale or solicitation of
 6 insurance;

7 (8) is an employer or association or the employer's or association's
 8 officer, director, employee, or the trustee of an employee trust plan, if the person
 9 is not compensated, directly or indirectly, for transacting insurance and is
 10 engaged in the administration or operation of a plan offering employee benefits
 11 for the employer's or association's own employees, or the employees of its
 12 subsidiaries or affiliates; to qualify under this paragraph, the plan must include
 13 insurance for employees; or

14 (9) is an officer, director, or employee of an admitted insurer who
 15 does not receive a commission on policies written or sold to risks resident,
 16 located, or to be performed in this state if the officer's, director's, or employee's
 17 functions are executive, administrative, managerial, clerical, or a combination of
 18 these and are only indirectly related to the transaction of insurance; relates to
 19 underwriting or loss control; or are in the capacity of an agency supervisor
 20 where the activities are limited to providing technical assistance to insurance
 21 producers and whose activities do not include transacting insurance.

22 * Sec. 4. AS 21.27.020(b) is amended to read:

23 (b) To qualify for issuance or renewal of an individual or individual in the
 24 firm license, an applicant or licensee shall comply with this title **and** [,] regulations
 25 adopted under AS 21.06.090 [,] and

26 (1) **shall** be **18** [19] years of age or older [WITH A HIGH SCHOOL
 27 OR GENERAL EDUCATION DEVELOPMENT DIPLOMA OR EQUIVALENT];

28 (2) if for a resident license, **shall** be a bona fide resident before
 29 issuance of the license and actually reside in the state;

30 (3) **shall** successfully pass an examination required under
 31 AS 21.27.060;

1 (4) **shall** be a trustworthy person;

2 (5) **may** not use or intend to use the license for the purpose principally
3 of writing controlled business, as defined in AS 21.27.030;

4 (6) **may** not have committed an act that is a cause for denial,
5 nonrenewal, suspension, or revocation of a license in this state or another jurisdiction.

6 * **Sec. 5.** AS 21.27.020(c) is repealed and reenacted to read:

7 (c) To qualify for issuance or renewal of a license as a firm insurance
8 producer, a firm managing general agent, a firm reinsurance intermediary broker, a
9 firm reinsurance intermediary manager, a firm surplus lines broker, or a firm
10 independent adjuster, an applicant or licensee shall

11 (1) comply with (b)(4) and (5) of this section;

12 (2) maintain a lawfully established place of business in this state,
13 except when licensed as a nonresident under AS 21.27.270;

14 (3) disclose to the director all owners, officers, directors, or partners of
15 the firm;

16 (4) designate a compliance officer for the firm;

17 (5) provide to the director documents necessary to verify the
18 information contained in or made in connection with the application; and

19 (6) notify the director, in writing, within 30 days of a change in the
20 firm's compliance officer or of the termination of employment of an individual in the
21 firm licensee.

22 * **Sec. 6.** AS 21.27.020(f) is amended to read:

23 (f) The director may adopt regulations establishing additional education or
24 experience requirements for applicants or licensees under this chapter upon due
25 consideration of the availability and accessibility of education and training
26 opportunities in rural areas of the state. Regulations adopted under this subsection are
27 subject to the following provisions:

28 (1) additional educational or experience requirements may not apply to
29 a licensee who has been licensed by the division of insurance before January 1, 1980;

30 (2) a licensee shall complete at least 24 credit hours of approved
31 continuing education courses during each two-year license period;

1 (3) if a licensee has accumulated more credit hours than required under
 2 (2) of this subsection by the end of the license period, a maximum of eight hours may
 3 be carried over to meet the requirements of (2) of this subsection in the next license
 4 period;

5 (4) a program or seminar may not be approved as an acceptable
 6 continuing education program unless it is a formal program of learning that
 7 contributes to the professional competence of the licensee; individual study programs
 8 or correspondence courses may be used to fulfill continuing education requirements if
 9 approved by the director;

10 (5) a nonresident licensee is exempt from the requirements of this
 11 subsection [IF THE LICENSEE SUBMITS EVIDENCE SATISFACTORY TO THE
 12 DIRECTOR THAT THE LICENSEE HAS SATISFIED ANY CONTINUING
 13 EDUCATION REQUIREMENTS OF THE LICENSEE'S DOMICILIARY STATE].

14 * **Sec. 7.** AS 21.27.025(a) is amended to read:

15 (a) A licensee shall notify the director within 30 days in writing [BY
 16 CERTIFIED MAIL] of a change in residence, employment that is licensed under this
 17 chapter, place of business, legal name, fictitious name or alias, mailing address, or
 18 phone number. A licensee shall report in writing to the director any
 19 administrative action taken against the licensee by a governmental agency of
 20 another state or by a governmental agency of another jurisdiction within 30 days
 21 after the final disposition of the action. A licensee shall submit to the director the
 22 final order and other relevant legal documents in the action. A licensee shall
 23 report to the director any criminal prosecution of the licensee in this or another
 24 state or jurisdiction within 30 days after the date of filing of the criminal
 25 complaint, indictment, information, or citation in the prosecution. The licensee
 26 shall submit to the director a copy of the criminal complaint, calendaring order,
 27 and other relevant legal documents in the prosecution [; A SUSPENSION,
 28 REVOCATION, OR DISCIPLINARY ACTION OF A LICENSE BY ANOTHER
 29 STATE OR JURISDICTION; OR A CONVICTION OF A MISDEMEANOR OR
 30 FELONY].

31 * **Sec. 8.** AS 21.27.025(b) is amended to read:

1 (b) A **compliance officer** [PRINCIPAL OR MANAGER] shall notify the
 2 director in writing within 30 days of a termination of employment of a licensed
 3 individual in the firm. Notice required under this subsection must include

4 (1) the licensee's name;

5 (2) the firm's name and address;

6 (3) the date of hire, self-employment, or termination **of the licensee**;

7 and

8 (4) other information required by the director.

9 * **Sec. 9.** AS 21.27.040(a) is amended to read:

10 (a) Application for a license shall be made to the director upon forms
 11 prescribed by the director. As a part of or in connection with the application, the
 12 applicant shall furnish information concerning the applicant's identity, personal
 13 history, experience, business record, purposes, and other pertinent facts that the
 14 director may reasonably require. The applicant shall declare, [UNDER OATH AND]
 15 subject to penalty of denial, nonrenewal, suspension, or revocation of a license issued
 16 by the director that the statements made in or in connection with the application are
 17 true, correct, and complete to the best of the applicant's knowledge and belief.
 18 Payment of an application fee established under AS 21.06.250 must be submitted with
 19 the application.

20 * **Sec. 10.** AS 21.27.040 is amended by adding a new subsection to read:

21 (e) As part of the application required by (a) of this section, an applicant shall
 22 furnish to the director a full set of fingerprints so that the director may obtain criminal
 23 justice information as provided under AS 12.62 about the applicant. The director shall
 24 submit the completed fingerprint card to the Department of Public Safety. The
 25 Department of Public Safety is authorized to submit the fingerprints to the Federal
 26 Bureau of Investigation for a national criminal history record check.

27 * **Sec. 11.** AS 21.27.060(a) is amended to read:

28 (a) Except as provided in this chapter, an applicant for an individual license
 29 and a **compliance officer** [PRINCIPAL OR MANAGER] applicant for a firm license
 30 shall, before the issuance of the license, personally take and pass, to the satisfaction of
 31 the director, an examination that tests the knowledge and competence of the applicant

1 as to the applicant's duties and responsibilities as a licensee and the insurance **statutes**
 2 [LAWS] and regulations of the state.

3 * **Sec. 12.** AS 21.27.060(c) is repealed and reenacted to read:

4 (c) An individual who applies for an insurance producer license in this state
 5 who was previously licensed for the same lines of authority in that individual's prior
 6 home state is not required to pass the examination required by (a) of this section in
 7 order to secure the same authority in this state. The exemption available under this
 8 subsection applies only if the application is received within 90 days after the
 9 cancellation of the applicant's previous license in the applicant's prior home state and

10 (1) the applicant's prior home state verifies that, at the time of
 11 cancellation, the applicant held an insurance producer license that was in good
 12 standing in that state; or

13 (2) the insurance producer licensing database records for the prior
 14 home state that are maintained by the National Association of Insurance
 15 Commissioners or its affiliates or subsidiaries indicate that the applicant is or was
 16 licensed in good standing for the kind of license requested.

17 * **Sec. 13.** AS 21.27.060(d) is amended to read:

18 (d) This section does not apply to an applicant

19 (1) for a limited license under **AS 21.27.150(a)(1), (5), or (6)**
 20 [AS 21.27.150(a)(1), (2), (6), OR (7)]; **or**

21 (2) who, at any time within the **one-year** [TWO-YEAR] period
 22 immediately preceding the date the current pending application is received by the
 23 division, had been licensed in good standing in this state under a license requiring
 24 substantially similar qualifications as required by the license applied for [; OR

25 (3) WHOSE LICENSE IN ITS RESIDENT JURISDICTION
 26 REQUIRES THE SAME QUALIFICATIONS AS THE LICENSE APPLIED FOR IN
 27 THIS STATE IF THE LICENSE IN ALL JURISDICTIONS IS IN GOOD
 28 STANDING].

29 * **Sec. 14.** AS 21.27.100 is amended by adding new subsections to read:

30 (f) An insurer may appoint an insurance producer to all or some insurers
 31 within the insurer's holding company system or group by the filing of a single

1 appointment under this subsection.

2 (g) The authorized or apparently authorized acts on behalf of an appointing
3 insurer of an insurance producer appointed under this section are considered the acts
4 of that insurer.

5 * **Sec. 15.** AS 21.27.110 is repealed and reenacted to read:

6 **Sec. 21.27.110. Term of appointment.** (a) An appointment under
7 AS 21.27.100 continues in force until the appointment is terminated in accordance
8 with this section.

9 (b) If an appointment is terminated by an insurer, reinsurer, or authorized
10 representative, the insurer, reinsurer, or authorized representative shall, on a form or in
11 a format prescribed by the director, notify the director within 30 days after the date of
12 termination of the appointment.

13 (c) If an appointment is terminated by the director, a written or an electronic
14 notice of termination shall be given to the appointee, to the person that made the
15 appointment, and, if different from the person making the appointment, to the insurer
16 or reinsurer, at least 10 days before the effective date of the termination. The director
17 shall send notification under this subsection to the latest address on record with the
18 director.

19 (d) If, after termination and notice under (b) of this section, an insurer,
20 reinsurer, or authorized representative discovers additional information showing that
21 the appointee whose appointment was terminated has engaged in an activity identified
22 in AS 21.27.410 during the period of the appointment, the insurer, reinsurer, or
23 authorized representative shall, on a form or in a format prescribed by the director,
24 promptly notify the director.

25 (e) Within 15 days after providing notification in accordance with (b) and (d)
26 of this section, the insurer, reinsurer, or authorized representative shall mail a copy of
27 the notification to the appointee at the last address on record with the director. The
28 notice must be provided by certified mail, return receipt requested, postage prepaid, or
29 by overnight delivery using a nationally recognized mail carrier, if the appointment
30 was terminated for an activity identified in AS 21.27.410.

31 (f) Within 30 days after the appointee receives notification in accordance with

1 (c) of this section, the appointee may file written comments concerning the substance
 2 of the notification with the director and must provide a copy of the written comments
 3 to the insurer, reinsurer, or authorized representative. The written comments filed
 4 with the director must be included with each report distributed or disclosed concerning
 5 a reason about the termination of the appointment.

6 (g) If requested by the director, an insurer, reinsurer, or authorized
 7 representative shall provide to the director additional information, documents, records,
 8 or other data pertaining to a termination or activity of a licensee under this title.

9 (h) A notice of termination submitted to the director under this section must
 10 include a statement of the reasons for the termination. A statement of the reasons for
 11 termination is confidential and not subject to inspection and copying under
 12 AS 40.25.110. A statement of reasons for the termination may not be admitted as
 13 evidence in a civil action or an administrative proceeding against an insurer, reinsurer,
 14 or authorized representative by or on behalf of a person affected by the termination,
 15 except when the action or proceeding involves perjury, unsworn falsification, fraud, or
 16 failure to comply with this subsection.

17 (i) If an insurer, reinsurer, or authorized representative fails to report as
 18 required under this section or is found by a court to have knowingly or intentionally
 19 falsely made that report, the director may, after notice and hearing, suspend or revoke
 20 the license or certificate of authority of the insurer, reinsurer, or authorized
 21 representative and may impose a penalty in accordance with AS 21.27.440.

22 (j) The director may require that an insurer renew an appointment annually
 23 and may require payment of a renewal fee under AS 21.06.250 for an appointment in
 24 effect on December 31 of the current year. If the director requires that an appointment
 25 be renewed or a renewal fee be paid, the director shall terminate the appointment if the
 26 renewal fees have not been received by the director on or before the close of business
 27 on March 1 of the renewal year.

28 * **Sec. 16.** AS 21.27 is amended by adding a new section to read:

29 **Sec. 21.27.115. Lines of authority.** If a person has met the applicable
 30 requirements of AS 21.27.020 and 21.27.270, the director shall issue a license for one
 31 or more of the following lines of authority:

1 (1) life insurance coverage on natural persons; in this paragraph, "life
2 insurance coverage"

3 (A) includes benefits of endowment and annuities; and

4 (B) may include benefits in the event of death or
5 dismemberment by accident and benefits for disability income;

6 (2) health insurance coverage for sickness, bodily injury, or accidental
7 death; in this paragraph, "health insurance coverage" may include benefits for
8 disability income;

9 (3) property insurance coverage for the direct or consequential loss for
10 damage to property of every kind;

11 (4) casualty insurance coverage against legal liability, including that
12 for death, injury, or disability or damage to real or personal property; in this
13 paragraph, "casualty insurance" includes surety insurance as defined in AS 21.12.080;

14 (5) variable life and variable annuity products insurance coverage;

15 (6) personal lines property and casualty insurance coverage sold to
16 individuals and families for primarily noncommercial purposes;

17 (7) limited lines credit insurance;

18 (8) any insurance for which a limited lines license may be issued under
19 AS 21.27.150.

20 * **Sec. 17.** AS 21.27.130 is amended to read:

21 **Sec. 21.27.130. Form and content of licenses.** A license must be in the form
22 the director prescribes and must set out

23 (1) the name and address of the licensee [,] and, if the licensee is
24 required to have a place of business, the physical address of the place of business;

25 (2) [IF FOR A FIRM, THE NAME OF THE PRINCIPAL OR
26 MANAGER OF THE FIRM];

27 (3) the type, [KIND OR] class, and lines of authority [OF
28 INSURANCE] the licensee is licensed to handle;

29 (3) [(4)] the effective date and expiration date of the license;

30 (4) each condition, if any, [(5) THE CONDITION] under which the
31 license is granted;

- 1 (5) [(6)] the date of issuance of the license;
- 2 (6) [(7)] each fictitious name and alias under which the licensee may
- 3 do business; and
- 4 (7) [(8)] other information required by the director.

5 * **Sec. 18.** AS 21.27.130 is amended by adding a new subsection to read:

6 (b) A license issued by the director does not in itself create any authority,

7 actual, apparent, or inherent, in the holder of the license to represent or commit an

8 insurer.

9 * **Sec. 19.** AS 21.27.140(b) is amended to read:

10 (b) A firm may not be licensed as an insurance producer, managing general

11 agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus

12 lines broker, or independent adjuster, or transact insurance unless each individual

13 employed as an insurance producer, managing general agent, surplus lines broker,

14 trainee insurance producer, trainee independent adjuster, or independent adjuster by

15 the firm is licensed as an individual in the firm and the **compliance officer**

16 [PRINCIPAL OR MANAGER] of the firm is licensed as an individual in the firm to

17 exercise all the powers conferred by the firm's license.

18 * **Sec. 20.** AS 21.27.140(c) is amended to read:

19 (c) If the director determines under AS 21.06.170 - 21.06.240 that a firm knew

20 or should have known of an act or representation made on the firm's behalf by a

21 person not licensed as required by this chapter, the firm and the firm's **compliance**

22 **officer** [PRINCIPAL OR MANAGER] are subject to the penalties provided under

23 AS 21.27.440.

24 * **Sec. 21.** AS 21.27.150(a) is amended to read:

25 (a) The director may issue a

26 (1) travel insurance limited producer license to a person [WHOSE

27 PLACE OF BUSINESS IS LOCATED IN THIS STATE,] who sells transportation

28 tickets of a common carrier of persons or property, who is appointed under

29 AS 21.27.100, and whose sole purpose is to be appointed by and act as an agent for

30 transportation ticket policies of health insurance, baggage insurance on personal

31 effects, and trip cancellation or trip interruption insurance;

1 (2) [HEALTH INSURANCE LIMITED PRODUCER LICENSE TO
 2 A RESIDENT OF THIS STATE WHOSE SOLE PURPOSE IS TO BE APPOINTED
 3 BY AND ACT AS AN AGENT FOR HEALTH INSURANCE PERTAINING TO
 4 SPORTS AND RECREATION;

5 (3)] title insurance limited producer license to a person whose place of
 6 business is located in this state and whose sole purpose is to be appointed by and act
 7 on behalf of a title insurer;

8 (3) [(4)] bail bond limited producer license to a person [WHOSE
 9 PLACE OF BUSINESS IS LOCATED IN THIS STATE AND] whose sole purpose is
 10 to be appointed by and act on behalf of a surety insurer pertaining to bail bonds;

11 (4) [(5)] fraternal benefit society limited producer license to a person
 12 whose sole purpose is to be appointed by and act on behalf of a fraternal benefit
 13 society licensed under AS 21.84;

14 (5) [(6) RETIRED INSURANCE PRODUCER LICENSE TO A
 15 RESIDENT WHO IS RETIRED OR RETIRING FROM THE BUSINESS OF
 16 INSURANCE AND SURRENDERS ALL IN-FORCE LICENSES TO ALLOW THE
 17 PERSON TO RECEIVE A CONTINUING COMMISSION IN REGARD TO
 18 INSURANCE TRANSACTED BEFORE RETIREMENT; A RETIRED
 19 INSURANCE PRODUCER LICENSEE MAY NOT SOLICIT, INDUCE,
 20 NEGOTIATE, OR EFFECTUATE CONTRACTS OF INSURANCE; THE
 21 DIRECTOR MAY RENEW A RETIRED INSURANCE PRODUCER LICENSE IF
 22 THE LICENSEE CEASES TO BE A RESIDENT OF THIS STATE;

23 (7)] motor vehicle rental agency limited producer license to a person
 24 and, subject to the approval of the director, to employees of the person licensed that
 25 the licensee authorizes to transact the business of insurance on the licensee's behalf if,
 26 as to an employee, the licensee complies with (D) of this paragraph and if the licensee

27 (A) rents to others, without operators,

28 (i) private passenger motor vehicles, including
 29 passenger vans, minivans, and sport utility vehicles; or

30 (ii) cargo motor vehicles, including cargo vans, pickup
 31 trucks, and trucks with a gross vehicle weight of less than 26,000

1 pounds that do not require the operator to possess a commercial driver's
2 license;

3 (B) rents motor vehicles only to persons under rental
4 agreements that do not exceed a term of 90 days;

5 (C) transacts only the following kinds of insurance:

6 (i) motor vehicle liability insurance with respect to
7 liability arising out of the use of a vehicle rented from the licensee
8 during the term of the rental agreement;

9 (ii) uninsured or underinsured motorist coverage, with
10 minimum limits described in AS 21.89.020(c) and (d) arising out of the
11 use of a vehicle rented from the licensee during the term of the rental
12 agreement;

13 (iii) insurance against medical, hospital, surgical, and
14 disability benefits to an injured person and funeral and death benefits to
15 dependents, beneficiaries, or personal representatives of a deceased
16 person if the insurance is issued as incidental coverage with or
17 supplemental to liability insurance and arises out of the use of a vehicle
18 rented from the licensee during the term of the rental agreement;

19 (iv) personal effects insurance, including loss of use,
20 with respect to damage to or loss of personal property of a person
21 renting the vehicle and other vehicle occupants while that property is
22 being loaded into, transported by, or unloaded from a vehicle rented
23 from the licensee during the term of the rental agreement;

24 (v) towing and roadside assistance with respect to
25 vehicles rented from the licensee during the term of the rental
26 agreement; and

27 (vi) other insurance as may be authorized by regulation
28 by the director;

29 (D) notifies the director in writing, within 30 days of
30 employment, of the name, date of birth, social security number, location of
31 employment, and home address of an employee authorized by the licensee to

1 transact insurance on the licensee's behalf; and

2 (E) provides other information as required by the director;

3 **(6) nonresident limited producer license to a person; a license that**
 4 **the director issues under this paragraph grants the same scope of authority as a**
 5 **limited lines producer license issued to the person by the person's home state;**

6 **(7) credit insurance limited producer license to a person who sells**
 7 **limited lines credit insurance;**

8 **(8) miscellaneous limited producer license to a person who**
 9 **transacts insurance in this state that restricts the person's authority to less than**
 10 **the total authority for a line of authority described in AS 21.27.115(1) - (6).**

11 * **Sec. 22.** AS 21.27.270 is repealed and reenacted to read:

12 **Sec. 21.27.270. Licensing of nonresidents.** (a) In accordance with P.L. 106-
 13 102 (Gramm-Leach-Bliley Act), the director shall issue a license to a nonresident
 14 license applicant on terms that are reciprocal with those of the applicant's home state.
 15 Notwithstanding any contrary provision of this chapter, the director may by order
 16 waive any license application requirement in this chapter to achieve reciprocity to
 17 license a nonresident in accordance with P.L. 106-102 (Gramm-Leach-Bliley Act).

18 (b) Unless the director denies or refuses to renew a license under
 19 AS 21.27.410, the director shall issue a nonresident producer, limited lines, surplus
 20 lines broker, managing general agent, reinsurance intermediary broker, or reinsurance
 21 intermediary manager license to a person who is not a resident of this state if

22 (1) the person is currently licensed and is in good standing in the
 23 person's home state; the director may verify the person's licensing status through the
 24 producer licensing database records maintained by the National Association of
 25 Insurance Commissioners or its affiliates or subsidiaries;

26 (2) the person has paid the fees required under AS 21.06.250 and has
 27 submitted to the director

28 (A) the license application the person submitted to the person's
 29 home state; or

30 (B) if the person is not a firm, a completed uniform application
 31 or, if a firm, the uniform business entity application; and

1 (3) the person's home state awards nonresident producer, limited lines,
2 surplus lines, managing general agent, reinsurance intermediary broker, and
3 reinsurance intermediary manager licenses to residents of this state on the same basis
4 as does this state.

5 (c) Notwithstanding (b) of this section, the director may require a person
6 applying for a

7 (1) nonresident license to furnish the person's fingerprints as required
8 of a person applying for a license under AS 21.27.040(e);

9 (2) surplus lines broker license under this section to have, and maintain
10 while licensed in this state, the bond required of a person applying for a license under
11 AS 21.27.790(2); and

12 (3) nonresident license to comply with the premium fiduciary account
13 requirements of AS 21.27.360 and the regulations adopted under that statute.

14 (d) A person licensed as a limited lines producer in the person's home state
15 shall receive a nonresident limited lines producer license granting the same scope of
16 authority as the license issued by the producer's home state.

17 (e) In addition to the other requirements of this chapter, a person may not be
18 licensed as a nonresident licensee until the person files a power of attorney as follows:

19 (1) an applicant shall appoint the director as attorney to receive service
20 of legal process issued against the licensee in this state upon a cause of action arising
21 in this state or relative to a subject resident, located, or to be performed in this state;
22 service upon the director as attorney shall constitute effective legal service upon the
23 licensee; and

24 (2) the appointment shall be irrevocable for as long as there could be a
25 cause of action against the licensee arising out of an insurance transaction in this state
26 or relative to a subject resident, located, or to be performed in this state.

27 (f) Duplicate copies of legal process against a licensed or formerly licensed
28 nonresident licensee shall be served upon the director either by a peace officer or
29 through certified mail with return receipt requested. At the time of service, the
30 plaintiff shall pay to the director a fee set under AS 21.06.250.

31 (g) Upon receiving a service of process, the director shall immediately send

1 one of the copies of the process by certified mail, return receipt requested, to the
 2 licensed or formerly licensed nonresident licensee at the last address of record filed
 3 with the director.

4 * **Sec. 23.** AS 21.27 is amended by adding a new section to read:

5 **Sec. 21.27.275. Alien licensees.** The director may issue a license authorized
 6 by this chapter to a nonresident of this state who does not have a home state if that
 7 person meets all the requirements of this chapter for that license applicable to a
 8 resident of this state applying for the same license.

9 * **Sec. 24.** AS 21.27.330 is repealed and reenacted to read:

10 **Sec. 21.27.330. Place of business.** (a) A person licensed under this chapter
 11 shall have and maintain at least one place of business that is physically accessible to
 12 the public in this state unless the person holds a nonresident license and principally
 13 conducts transactions in another state. However, the nonresident licensee must have at
 14 least one physically accessible place in the nonresident licensee's home state. The
 15 requirements of this subsection do not apply to a licensee who only conducts business
 16 in life or health insurance or annuities.

17 (b) If a licensee that is a firm transacts business at more than one place of
 18 business in this state, the licensee shall pay a license fee for each place of business.

19 * **Sec. 25.** AS 21.27.350(c) is amended to read:

20 (c) The records of a particular transaction shall be retained and kept open for
 21 examination and inspection by the director at any business time during the five years
 22 immediately after the date of the completion of the transaction or 10 years for
 23 reinsurance transactions, unless the director orders a longer period of retention. If a
 24 licensee assumes the business of another licensee or former licensee by merger,
 25 purchase, or otherwise, the **compliance officer** [PRINCIPAL OR MANAGER] of the
 26 assuming licensee firm shall provide to the director in writing each location where the
 27 assumed licensee's records are maintained by the assuming licensee during the period
 28 in which the records must be kept available and open to the inspection of the director.
 29 A formerly licensed person shall provide to the director in writing each location where
 30 records shall be maintained during the period in which the records of a particular
 31 transaction must be kept available and open to the examination and inspection of the

1 director. A formerly licensed person may, with the permission of the director, arrange
 2 to have a current licensee or the home office of the last known insurer of each
 3 policyholder [,] maintain the records open to the examination and inspection of the
 4 director during the period in which the records must be maintained.

5 * **Sec. 26.** AS 21.27.360(b) is amended to read:

6 (b) All money, except that made payable to the insurer, representing premium
 7 taxes and fees, premiums, or return premiums received by the licensee [,] shall be
 8 received **by the licensee as a** [IN THE] fiduciary [ACCOUNT OF THE LICENSEE]
 9 and shall be promptly accounted for and paid to the person entitled to the money.
 10 [THE FIDUCIARY ACCOUNT SHALL BE LOCATED IN THIS STATE UNLESS
 11 THE LICENSEE IS LICENSED AS A NONRESIDENT UNDER AS 21.27.270.
 12 FOR PURPOSES OF THIS SECTION, THE FIDUCIARY ACCOUNT OF THE
 13 FIRM SHALL BE CONSIDERED THE FIDUCIARY ACCOUNT OF AN
 14 INDIVIDUAL LICENSEE ACTING ON BEHALF OF THE FIRM AND SHALL BE
 15 THE RESPONSIBILITY OF THE FIRM]. Money **held by the licensee as a**
 16 **fiduciary** [DEPOSITED INTO A FIDUCIARY ACCOUNT] may not be commingled
 17 or otherwise combined with other money **not held by the licensee as a fiduciary** [,
 18 EXCEPT AS ALLOWED UNDER (d) OF THIS SECTION AND AS 21.27.365].

19 * **Sec. 27.** AS 21.27.360(c) is amended to read:

20 (c) In addition to any other penalty provided by law, a person who the director
 21 has determined has acted to divert or appropriate **money held as a** fiduciary
 22 [ACCOUNT MONEY] for personal use shall be ordered to make restitution and shall
 23 be subject to suspension or revocation under AS 21.27.420 - 21.27.430 of all licenses
 24 and a civil penalty not to exceed \$50,000 for each violation.

25 * **Sec. 28.** AS 21.27.360(d) is amended to read:

26 (d) A licensee may only commingle premium taxes and fees, premiums, and
 27 return premiums with additional money for the purpose of advancing premiums,
 28 establishing reserves for the payment of return premiums, or reserves for receiving and
 29 transmitting premium or return premium money [. MONEY COLLECTED FOR THE
 30 PAYMENT OF PREMIUM TAXES, POLICY OR FILING FEES, LATE PAYMENT
 31 CHARGES, AND INTEREST FROM FIDUCIARY MONEY ON DEPOSIT, MAY

1 BE COMMINGLED IN A FIDUCIARY ACCOUNT, BUT SHALL BE
 2 SEPARATELY ACCOUNTED FOR AND PERIODICALLY REMOVED FROM
 3 THE FIDUCIARY ACCOUNT].

4 * **Sec. 29.** AS 21.27.360(e) is amended to read:

5 (e) Money held by a licensee as a fiduciary may not be treated [A
 6 LICENSEE MAY NOT TREAT MONEY REQUIRED TO BE IN A FIDUCIARY
 7 ACCOUNT] as a personal asset, as collateral for a personal or business loan, or as a
 8 personal asset or income on a financial statement, except that money held by the
 9 licensee as a [IN A] fiduciary [ACCOUNT] may be included in a financial statement
 10 of the licensee if clearly identified as assets held by the licensee as a fiduciary
 11 [ACCOUNT ASSETS AND LIABILITIES].

12 * **Sec. 30.** AS 21.27.360(f) is amended to read:

13 (f) This section does not apply to an individual in the firm who acts solely on
 14 behalf of a firm that maintains compliance with this section [AND DEPOSITS ALL
 15 MONEY INTO THE FIRM'S FIDUCIARY ACCOUNT].

16 * **Sec. 31.** AS 21.27 is amended by adding a new subsection to read:

17 (h) The director of insurance may adopt regulations to implement, define, and
 18 enforce this section.

19 * **Sec. 32.** AS 21.27.370 is repealed and reenacted to read:

20 **Sec. 21.27.370. Sharing compensation.** (a) Except as provided in (c) and (d)
 21 of this section, a licensee may not compensate a person, other than a licensee who is
 22 acting within the scope of the person's license, for transacting insurance in this state or
 23 relative to a risk resident, located, or to be performed in this state.

24 (b) Except as provided in (c) and (d) of this section, a person may not be
 25 promised or paid, directly or indirectly, compensation for transacting a kind or class of
 26 insurance for which the person is not then licensed to transact or for insurance that the
 27 person is prohibited by this title from transacting.

28 (c) An unlicensed person who refers a customer or potential customer to a
 29 licensee and who does not discuss specific terms and conditions of a policy, or who
 30 gives opinions or advice regarding insurance, may be compensated for the referral, if
 31 the compensation

- 1 (1) for each referral is
 2 (A) nominal;
 3 (B) on a one-time basis; and
 4 (C) fixed in amount by referral;
 5 (2) does not depend on whether the customer or potential customer
 6 purchases the insurance; and
 7 (3) is not contingent on the volume of insurance transacted.

8 (d) An insurer or insurance producer may compensate an insurance agency or
 9 another person if that person does not transact the business of insurance in this state
 10 and the payment does not violate AS 21.36.100 or 21.36.120.

11 (e) A person who is no longer licensed in this state may be paid renewal or
 12 other deferred compensation for selling, soliciting, or negotiating insurance in this
 13 state if the person

14 (1) was required to be licensed under this chapter at the time of the
 15 sale, solicitation, or negotiation; and

16 (2) held that required license.

17 (f) In addition to any other penalty provided by law, the director may suspend
 18 or revoke the license of a licensee participating in a violation of this section. The
 19 director may order a licensee who violates this section to pay a penalty of not more
 20 than three times the compensation promised or paid.

21 * **Sec. 33.** AS 21.27.390(a) is amended to read:

22 (a) The director may issue a temporary license only to a person who, except
 23 for experience, training, or the taking of an examination, meets all qualifications for a
 24 permanent license and if the person is

25 (1) the surviving spouse, next of kin, or the administrator or executor
 26 of a deceased licensed insurance producer or managing general agent;

27 (2) the spouse, next of kin, employee, or legal guardian of a licensed
 28 insurance producer or managing general agent who is disabled from transacting
 29 insurance because of sickness, mental illness [INSANITY], or injury;

30 (3) a surviving member, officer, or employee of a firm licensed as
 31 insurance producer or managing general agent upon the death of the compliance

1 **officer** [PRINCIPAL OR MANAGER] of the firm holding the same licenses as the
2 firm; or

3 (4) the designee of a licensed insurance producer who enters active
4 service in the armed forces of the United States, but only for insurance relating to
5 insurers for whom the licensee was acting as an agent.

6 * **Sec. 34.** AS 21.27.410(b) is amended to read:

7 (b) The license of a firm and its **compliance officer** [PRINCIPAL OR
8 MANAGER] may be denied, nonrenewed, suspended, or revoked for a violation or
9 cause that relates to a person representing or acting on behalf of the firm.

10 * **Sec. 35.** AS 21.27.460(c) is amended to read:

11 (c) Upon a change in the state of residence, a place of business, a mailing
12 address, or in the **compliance officer** [PRINCIPAL OR MANAGER] of a firm, a
13 license subject to the change shall be surrendered to the director within 10 days either
14 personally or by certified mail and the division shall reissue the license reflecting the
15 changes if the licensee continues to satisfy the qualifications under this chapter.

16 * **Sec. 36.** AS 21.27.540(g) is amended to read:

17 (g) In addition to any other penalty provided by law, if the director determines
18 under AS 21.06.170 - 21.06.240 that the employing licensed insurance producer knew
19 of or should have known that a trainee insurance producer violated this section, the
20 employing licensed insurance producer and firm, **and the compliance officer**
21 [PRINCIPAL AND MANAGER], if any, are subject to the penalties provided under
22 AS 21.27.440.

23 * **Sec. 37.** AS 21.27.550(c) is amended to read:

24 (c) All money collected for the account of an insurer shall be held by the
25 insurance producer **as** [IN] a fiduciary [ACCOUNT AS DESCRIBED UNDER
26 AS 21.27.360, AND THE INSURANCE PRODUCER SHALL COMPLY WITH
27 ALL APPLICABLE FIDUCIARY ACCOUNT STATUTES AND REGULATIONS].

28 * **Sec. 38.** AS 21.27.550(i) is amended to read:

29 (i) A reinsurance intermediary manager may not enter into an agency
30 agreement with an insurance producer unless both parties are licensed under this
31 chapter and there is in effect a written agency agreement that specifically sets out the

1 duties, functions, powers, authority, and compensation of all parties to the agreement.
 2 The written agreement shall be kept in the permanent records of the reinsurance
 3 intermediary manager, the reinsurer, and the insurance producer, and be open to
 4 inspection by the director. A written agreement must contain the following minimum
 5 provisions:

6 (1) money collected for the account of a reinsurer must be held by the
 7 insurance producer as [IN] a fiduciary [ACCOUNT AS DESCRIBED UNDER
 8 AS 21.27.360; THE INSURANCE PRODUCER SHALL COMPLY WITH ALL
 9 APPLICABLE FIDUCIARY ACCOUNT STATUTES AND REGULATIONS];

10 (2) the agreement may not be assigned in whole or in part by the
 11 insurance producer;

12 (3) the agreement may not permit the insurance producer to settle
 13 claims on behalf of the reinsurer or reinsurance intermediary manager; and

14 (4) the insurance producer may not

15 (A) jointly employ an individual who is employed with the
 16 reinsurer or reinsurance intermediary manager; or

17 (B) delegate insurance producer authority to another person.

18 * **Sec. 39.** AS 21.27.560(a) is amended to read:

19 (a) A client who appoints an insurance producer as its broker in this state or
 20 relative to a subject resident, located, or to be performed in this state shall execute a
 21 written contract that specifically sets out the duties, functions, powers, authority, and
 22 compensation of the insurance producer, if the broker is compensated by a fee paid by
 23 the client or by a combination of a fee paid by a client and a commission paid by an
 24 insurer with which coverage has been placed. The written contract shall be kept in the
 25 permanent records of the insurance producer and be open to inspection by the director.

26 * **Sec. 40.** AS 21.27.560(g) is amended to read:

27 (g) Money paid by a client to an insurance producer for insurance premiums
 28 shall be held by the insurance producer as [IN] a fiduciary [ACCOUNT AS
 29 DESCRIBED UNDER AS 21.27.360, AND THE INSURANCE PRODUCER
 30 SHALL COMPLY WITH APPLICABLE FIDUCIARY ACCOUNT STATUTES
 31 AND REGULATIONS].

1 * **Sec. 41.** AS 21.27.570(a) is amended to read:

2 (a) If the aggregate amount of gross written premium on business placed by a
3 controlling insurance producer exceeds five percent of the admitted assets of the
4 controlled insurer for a calendar year as reported in the insurer's most recent financial
5 statement filed with the director, the controlling insurance producer may not place
6 business with the controlled insurer and the controlled insurer may not accept business
7 from the controlling insurance producer unless a written contract is in effect between
8 the parties that

9 (1) establishes the responsibilities of each party, indicates each party's
10 share of responsibility for each particular function, and specifies the division of
11 responsibilities;

12 (2) has been approved by the board of directors of the controlled
13 insurer;

14 (3) contains the following minimum provisions:

15 (A) the controlled insurer may terminate the contract for cause
16 upon written notice sent by certified mail to the controlling producer and shall
17 suspend the authority of the controlling insurance producer to write business
18 during a dispute regarding the cause for termination;

19 (B) the controlling insurance producer shall render accounts to
20 the controlled insurer detailing all transactions, including information in the
21 accounts necessary to support compensation, commissions, charges, and other
22 fees received by, or owing to, the controlling producer;

23 (C) the controlling insurance producer shall remit money due
24 under the contract to the controlled insurer at least monthly;

25 (D) premiums or installments collected shall be due not later
26 than 90 days after the effective date of coverage placed with the controlled
27 insurer;

28 (E) money collected for the account of a controlled insurer
29 shall be held by the controlling insurance producer **as** [IN] a fiduciary
30 [ACCOUNT AS DESCRIBED UNDER AS 21.27.360], except a controlling
31 insurance producer not required to be licensed under this chapter shall **act as a**

1 [MAINTAIN ITS] fiduciary [ACCOUNT] in compliance with the
2 requirements of its domiciliary jurisdiction;

3 (F) [A LICENSED CONTROLLING INSURANCE
4 PRODUCER SHALL COMPLY WITH ALL APPLICABLE FIDUCIARY
5 ACCOUNT STATUTES AND REGULATIONS;

6 (G) A FIDUCIARY ACCOUNT MUST BE USED FOR] all
7 payments on behalf of the controlled insurer **shall be held by the controlling**
8 **insurance producer as a fiduciary**;

9 (G) [(H)] the controlling insurance producer shall maintain
10 separate records for each controlled insurer in a form usable by the controlled
11 insurer; the controlled insurer or its authorized representative shall have the
12 right to audit and the right to copy all accounts and records related to the
13 controlled insurer's business; the director, in addition to authority granted in
14 this title, shall have access to all books, bank accounts, and records of the
15 controlling insurance producer in a form usable to the director;

16 (H) [(I)] the contract may not be assigned in whole or in part
17 by the controlling insurance producer;

18 (I) [(J)] the controlled insurer shall provide, and the controlling
19 producer shall follow, written underwriting standards, rules, procedures, and
20 manuals that must include the conditions for acceptance or rejection of risks,
21 including types of risks that may be written, maximum limits of liability,
22 applicable exclusions, territorial limitations, policy cancellation provisions, the
23 maximum policy term, the rating system, and basis of the rates to be charged;

24 (J) [(K)] the underwriting standards, rules, procedures, and
25 manuals shall be the same as those applicable to comparable business placed
26 with the controlled insurer by licensees other than the controlling licensee;

27 (K) [(L)] the rates and terms of the controlling insurance
28 producer's compensation including commissions, charges, and other fees may
29 not be greater than those applicable to comparable business placed with the
30 controlled insurer by licensees other than the controlling licensee;

31 (L) [(M)] the controlled insurer shall establish a limit, that may

1 be different for each kind or class of business, on the amount of premium that
 2 the controlling insurance producer may place with the controlled insurer in
 3 relation to the controlled insurer's surplus and total writings;

4 (M) [(N)] the controlled insurer shall notify the controlling
 5 insurance producer if an applicable limit is approached and the controlling
 6 insurance producer may not place and the controlled insurer may not accept
 7 business if the limit under (L) [(M)] of this paragraph has been reached;

8 (N) [(O)] if the contract provides that the controlling insurance
 9 producer, on insurance placed with the controlled insurer, is to be compensated
 10 contingent upon the controlling insurer's profits on the placed insurance, the
 11 contingent compensation may not be determined or paid until

12 (i) at least five years after the premiums are earned on
 13 casualty business and at least one year after the premiums are earned on
 14 any other insurance;

15 (ii) a later period established by the director for
 16 specified kinds or classes of insurance; and

17 (iii) not until the profits have been verified under (b) of
 18 this section;

19 (O) [(P)] the controlling insurance producer may negotiate but
 20 may not bind reinsurance on behalf of the controlled insurer on insurance that
 21 the controlling insurance producer places with the controlled insurer, except
 22 that the controlling insurance producer may bind facultative reinsurance
 23 contracts under obligatory agreements if the contract with the controlled
 24 insurer contains reinsurance underwriting guidelines including, for both
 25 reinsurance assumed and ceded, a list of reinsurers with which automatic
 26 agreements are in effect, the coverage and amounts or percentages that may be
 27 reinsured, and commission schedules; and

28 (4) provides that the controlled insurer has an audit committee
 29 composed of independent members of the board of directors that meet at least annually
 30 with management, the insurer's independent certified public accountants, and an
 31 independent actuary specialist acceptable to the director to review the adequacy of the

1 insurer's reserves for losses incurred and outstanding.

2 * **Sec. 42.** AS 21.27.600(g) is amended to read:

3 (g) In addition to any other penalty provided by law

4 (1) the director shall revoke the trainee license of a trainee managing
5 general agent who the director determines has violated the provisions of this section; a
6 licensee or other person having possession or custody of the license shall immediately
7 surrender the license to the director either personally or by certified mail;

8 (2) if the director determines under AS 21.06.170 - 21.06.240 that the
9 employing managing general agent knew of or should have known that a trainee
10 managing general agent violated this section, the employing managing general agent
11 and firm, **and the compliance officer** [PRINCIPAL, AND MANAGER], if any, are
12 subject to the penalties provided under AS 21.27.440.

13 * **Sec. 43.** AS 21.27.620(a) is amended to read:

14 (a) An insurer may not transact business with a managing general agent unless

15 (1) the insurer holds a certificate of authority in this state;

16 (2) the managing general agent is licensed under this chapter or, when
17 the managing general agent is operating only for a foreign insurer, is licensed by its
18 resident insurance regulator in a state that the director has determined has enacted
19 provisions substantially similar to those contained in this chapter and the state is
20 accredited by the National Association of Insurance Commissioners;

21 (3) a written contract is in effect between the parties that establishes
22 the responsibilities of each party, indicates both party's share of responsibility for a
23 particular function, and specifies the division of responsibilities;

24 (4) a written contract between an insurer and a managing general agent
25 contains the following provisions:

26 (A) the insurer may terminate the contract for cause upon
27 written notice sent by certified mail to the managing general agent and may
28 suspend the underwriting authority of the managing general agent during a
29 dispute regarding the cause for termination;

30 (B) the managing general agent shall render accounts to the
31 insurer detailing all transactions and remit all money due under the contract to

1 the insurer at least monthly;

2 (C) all money collected for the account of an insurer shall be
3 held by the managing general agent as [IN] a fiduciary [ACCOUNT AS
4 DESCRIBED UNDER AS 21.27.360];

5 (D) [THE MANAGING GENERAL AGENT SHALL
6 COMPLY WITH ALL APPLICABLE FIDUCIARY ACCOUNT STATUTES
7 AND REGULATIONS];

8 (E) A FIDUCIARY ACCOUNT SHALL BE USED FOR] all
9 payments on behalf of the insurer **shall be held by the managing general**
10 **agent as a fiduciary;**

11 **(E)** [(F)] the managing general agent may not retain more than
12 three months estimated claims payments and allocated loss adjustment
13 expenses;

14 **(F)** [(G)] the managing general agent shall maintain separate
15 records for each insurer in a form usable by the insurer; the insurer or its
16 authorized representative shall have the right to audit and the right to copy all
17 accounts and records related to the insurer's business; the director, in addition
18 to authority granted in this title, shall have access to all books, bank accounts,
19 and records of the managing general agent in a form usable to the director;

20 **(G)** [(H)] the contract may not be assigned in whole or in part
21 by the managing general agent;

22 **(H)** [(I)] if the contract permits the managing general agent to
23 do underwriting, the contract must include the following:

24 (i) the managing general agent's maximum annual
25 premium volume;

26 (ii) the rating system and basis of the rates to be
27 charged;

28 (iii) the types of risks that may be written;

29 (iv) maximum limits of liability;

30 (v) applicable exclusions;

31 (vi) territorial limitations;

- 1 (vii) policy cancellation provisions;
 2 (viii) the maximum policy term; and
 3 (ix) that the insurer shall have the right to cancel or not
 4 renew a policy of insurance subject to applicable state law;

5 **I** [(J)] if the contract permits the managing general agent to
 6 settle claims on behalf of the insurer, the contract must include the following:

7 (i) written settlement authority must be provided by the
 8 insurer and may be terminated for cause upon the insurer's written
 9 notice sent by certified mail to the managing general agent or upon the
 10 termination of the contract, but the insurer may suspend the settlement
 11 authority during a dispute regarding the cause of termination;

12 (ii) claims shall be reported to the insurer within 30
 13 days;

14 (iii) a copy of the claim file shall be sent to the insurer
 15 upon request or as soon as it becomes known that the claim has the
 16 potential to exceed an amount determined by the director or exceeds the
 17 limit set by the insurer, whichever is less, involves a coverage dispute,
 18 may exceed the managing general agent's claims settlement authority,
 19 is open for more than six months, involves extra contractual
 20 allegations, or is closed by payment in excess of an amount set by the
 21 director or an amount set by the insurer, whichever is less;

22 (iv) each party shall comply with unfair claims
 23 settlement statutes and regulations;

24 (v) transmission of electronic data at least monthly if
 25 electronic claim files are in existence; and

26 (vi) claim files shall be the property of both the insurer
 27 and managing general agent; upon an order of liquidation of the
 28 insurer, the files shall become the sole property of the insurer or the
 29 insurer's estate; the managing general agent shall have reasonable
 30 access to and the right to copy the files on a timely basis;

31 **J** [(K)] if the contract provides for sharing of interim profits

1 by the managing general agent and the managing general agent has the
 2 authority to determine the amount of the interim profits by establishing loss
 3 reserves, by controlling claim payments, or in any other manner, interim
 4 profits may not be paid to the managing general agent until

5 (i) one year after they are earned for property insurance
 6 business and five years after they are earned on casualty business;

7 (ii) a later period established by the director for
 8 specified kinds or classes of insurance; and

9 (iii) not until the profits have been verified under (d) of
 10 this section;

11 (K) [(L)] if the insurer is domiciled in this state or the
 12 managing general agent has a place of business in this state, a copy of the
 13 contract must be filed with and approved by the director at least 30 days before
 14 the managing general agent transacts business on behalf of the insurer; if the
 15 insurer is not domiciled in this state or the managing general agent transacts
 16 business relative to a subject resident, located, or to be performed in this state
 17 from a place of business not physically located in this state, a copy of the
 18 contract required in this section must be filed with and approved by the
 19 director at least 30 days before the managing general agent transacts business
 20 on behalf of the insurer in this state or relative to a subject resident, located, or
 21 to be performed in this state if the insurer or the managing general agent are
 22 domiciled in a state not accredited by the National Association of Insurance
 23 Commissioners; and

24 (L) [(M)] if the contract is not required to be approved in
 25 advance by the director, the insurer shall provide written notification to the
 26 director within 30 days of the entry into or termination of a contract with a
 27 managing general agent; the notice must include a statement of duties to be
 28 performed by the managing general agent on behalf of the insurer, the kinds
 29 and classes of insurance for which the managing general agent has
 30 authorization to act, and other information required by the director.

31 * **Sec. 44.** AS 21.27.620 is amended by adding a new subsection to read:

1 (l) In this section, "transact" has the meaning given in AS 21.90.900.

2 * **Sec. 45.** AS 21.27.640(b) is repealed and reenacted to read:

3 (b) To qualify for issuance or renewal of a registration, an applicant or
4 registrant shall comply with this title, regulations adopted under AS 21.06.090, and

5 (1) be a trustworthy person;

6 (2) have active working experience in administrative functions that, in
7 the director's opinion, exhibits the ability to competently perform the administrative
8 functions of a third-party administrator;

9 (3) not have committed an act that is a cause for denial, nonrenewal,
10 suspension, or revocation of a registration or license in this state or another
11 jurisdiction;

12 (4) maintain a lawfully established place of business as described in
13 AS 21.27.330 in this state, unless licensed as a nonresident under AS 21.27.270;

14 (5) disclose to the director all owners, officers, directors, or partners, if
15 any;

16 (6) designate a compliance officer for the firm;

17 (7) provide in or with its application

18 (A) all basic organizational documents of the third-party
19 administrator, including articles of incorporation, articles of association,
20 partnership agreement, trade name certificate, trust agreement, shareholder
21 agreement, and other applicable documents and all endorsements to the
22 required documents;

23 (B) the bylaws, rules, regulations, or similar documents
24 regulating the internal affairs of the administrator;

25 (C) the names, mailing addresses, physical addresses, official
26 positions, and professional qualifications of persons who are responsible for
27 the conduct of affairs of the third-party administrator, including the members
28 of the board of directors, board of trustees, executive committee, or other
29 governing board or committee; the principal officers in the case of a
30 corporation, or the partners or members in the case of a partnership, limited
31 liability company, limited liability partnership, or association; shareholders

1 holding directly or indirectly 10 percent or more of the voting securities of the
 2 third-party administrator; and any other person who exercises control or
 3 influence over the affairs of the third-party administrator;

4 (D) certified financial statements for the preceding two years,
 5 or for each year and partial year that the applicant has been in business if less
 6 than two years, prepared by an independent certified public accountant
 7 establishing that the applicant is solvent, that the applicant's system of
 8 accounting, internal control, and procedure is operating effectively to provide
 9 reasonable assurance that money is promptly accounted for and paid to the
 10 person entitled to the money, and any other information that the director may
 11 require to review the current financial condition of the applicant; and

12 (E) a statement describing the business plan, including
 13 information on staffing levels and activities proposed in this state and in other
 14 jurisdictions and providing details establishing the third-party administrator's
 15 capability for providing a sufficient number of experienced and qualified
 16 personnel in the areas of claims handling, underwriting, and record keeping;

17 (8) provide to the director documents necessary to verify the
 18 statements contained in or in connection with the application; and

19 (9) notify the director, in writing, within 30 days of

20 (A) a change in compliance officer, residence, place of
 21 business, mailing address, or phone number;

22 (B) the suspension or revocation of an insurance license or
 23 registration by another state or jurisdiction; or

24 (C) a conviction of a misdemeanor or felony of the third-party
 25 administrator, its officers, directors, partners, owners, or employees.

26 * **Sec. 46.** AS 21.27.650(a) is amended to read:

27 (a) An insurer may not transact business with a third-party administrator
 28 unless

29 (1) the insurer holds a certificate of authority in this state;

30 (2) the third-party administrator is registered under this chapter or,
 31 when the third-party administrator is operating only for a foreign insurer, is registered

1 as a third-party administrator by the third-party administrator's resident insurance
 2 regulator in a state that the director has determined has enacted provisions
 3 substantially similar to those contained in AS 21.27.630 - 21.27.650 and that is
 4 accredited by the National Association of Insurance Commissioners;

5 (3) the third-party administrator provides the director on January 1,
 6 April 1, July 1, and October 1 of each year

7 (A) a list of current employees, identifying those transacting
 8 business in this state or upon a subject resident, located or to be performed in
 9 this state;

10 (B) a list of current insurers under contract; and

11 (C) other information the director may require;

12 (4) a written contract is in effect between the parties that establishes
 13 the responsibilities of each party, indicates both parties' share of responsibility for a
 14 particular function, and specifies the division of responsibilities;

15 (5) there is in effect a written contract between the insurer and third-
 16 party administrator that contains the following provisions:

17 (A) the insurer may terminate the contract for cause upon
 18 written notice sent by certified mail to the third-party administrator and may
 19 suspend the underwriting authority of the third-party administrator during a
 20 dispute regarding the cause for termination; but the insurer must fulfill all
 21 lawful obligations with respect to policies affected by the written agreement,
 22 regardless of any dispute between the insurer and the third-party administrator;

23 (B) the third-party administrator shall render accounts to the
 24 insurer detailing all transactions and remit all money due under the contract to
 25 the insurer at least monthly;

26 (C) all money collected for the account of an insurer shall be
 27 held by the third-party administrator as [IN] a fiduciary [ACCOUNT AS
 28 DESCRIBED UNDER AS 21.27.360];

29 [(D) THE THIRD-PARTY ADMINISTRATOR SHALL
 30 COMPLY WITH ALL APPLICABLE FIDUCIARY ACCOUNT STATUTES
 31 AND REGULATIONS;

1 (E) A FIDUCIARY ACCOUNT SHALL BE USED FOR] all
 2 payments on behalf of the insurer **shall be held by the third-party**
 3 **administrator as a fiduciary;**

4 (E) [(F)] the third-party administrator may not retain more than
 5 three months estimated claims payments and allocated loss adjustment
 6 expenses;

7 (F) [(G)] the third-party administrator shall maintain separate
 8 records for each insurer in a form usable by the insurer; the insurer or its
 9 authorized representative shall have the right to audit and the right to copy all
 10 accounts and records related to the insurer's business; the director, in addition
 11 to other authority granted in this title, shall have access to all books, bank
 12 accounts, and records of the third-party administrator in a form usable to the
 13 director; any trade secrets contained in books and records reviewed by the
 14 director, including the identity and addresses of policyholders and certificate
 15 holders, shall be kept confidential, except that the director may use the
 16 information in a proceeding instituted against the third-party administrator or
 17 the insurer;

18 (G) [(H)] the contract may not be assigned in whole or in part
 19 by the third-party administrator;

20 (H) [(I)] if the contract permits the third-party administrator to
 21 do underwriting, the contract must include the following:

22 (i) the third-party administrator's maximum annual
 23 premium volume;

24 (ii) the rating system and basis of the rates to be
 25 charged;

26 (iii) the types of risks that may be written;

27 (iv) maximum limits of liability;

28 (v) applicable exclusions;

29 (vi) territorial limitations;

30 (vii) policy cancellation provisions;

31 (viii) the maximum policy term; and

1 (ix) that the insurer shall have the right to cancel or not
2 renew a policy of insurance subject to applicable state law;

3 **(I)** [(J)] if the contract permits the third-party administrator to
4 administer claims on behalf of the insurer, the contract must include the
5 following:

6 (i) written settlement authority must be provided by the
7 insurer and may be terminated for cause upon the insurer's written
8 notice sent by certified mail to the third-party administrator or upon the
9 termination of the contract, but the insurer may suspend the settlement
10 authority during a dispute regarding the cause of termination;

11 (ii) claims shall be reported to the insurer within 30
12 days;

13 (iii) a copy of the claim file shall be sent to the insurer
14 upon request or as soon as it becomes known that the claim has the
15 potential to exceed an amount determined by the director or exceeds the
16 limit set by the insurer, whichever is less, involves a coverage dispute,
17 may exceed the third-party administrator's claims settlement authority,
18 is open for more than six months, involves extra contractual
19 allegations, or is closed by payment in excess of an amount set by the
20 director or an amount set by the insurer, whichever is less;

21 (iv) each party to the contract shall comply with unfair
22 claims settlement statutes and regulations;

23 (v) transmission of electronic data must occur at least
24 monthly if electronic claim files are in existence; and

25 (vi) claim files shall be the sole property of the insurer;
26 upon an order of liquidation of the insurer, the third-party administrator
27 shall have reasonable access to and the right to copy the files on a
28 timely basis; and

29 **(J)** [(K)] the contract may not provide for commissions, fees, or
30 charges contingent upon savings obtained in the adjustment, settlement, and
31 payment of losses covered by the insurer's obligations; but a third-party

1 administrator may receive performance-based compensation for providing
 2 hospital or other auditing services or may receive compensation based on
 3 premiums or charges collected or the number of claims paid or processed.

4 * **Sec. 47.** AS 21.27.650 is amended by adding a new subsection to read:

5 (p) In this section, "transact" has the meaning given in AS 21.90.900.

6 * **Sec. 48.** AS 21.27.680(g) is amended to read:

7 (g) In addition to any other penalty provided by law,

8 (1) the director shall revoke the license of a trainee reinsurance
 9 intermediary broker who the director determines has violated the provisions of this
 10 section; a licensee or other person having possession or custody of the license shall
 11 immediately surrender the license to the director either personally or by certified mail;

12 (2) if the director determines under AS 21.06.170 - 21.06.240 that the
 13 employing reinsurance intermediary broker knew of or should have known that a
 14 trainee reinsurance intermediary broker violated this section, the employing
 15 reinsurance intermediary broker and firm **and compliance officer** [, PRINCIPAL
 16 AND MANAGER], if any, are subject to the penalties provided under AS 21.27.440.

17 * **Sec. 49.** AS 21.27.690(a) is amended to read:

18 (a) Except as provided in (b) of this section, an insurer may not transact
 19 business with a reinsurance intermediary broker unless the insurer holds a certificate
 20 of authority in this state, the reinsurance intermediary broker is licensed in this state,
 21 and there is in effect a written contract between the parties that establishes the
 22 responsibilities of each party, indicates each party's share of responsibility for each
 23 particular function, and specifies the division of responsibilities. The written contract
 24 shall be kept in the permanent records of the insurer and the reinsurance intermediary
 25 broker, be open to inspection by the director, and must contain the following minimum
 26 provisions:

27 (1) the insurer may terminate the reinsurance intermediary broker's
 28 authority at any time by written notice sent by certified mail;

29 (2) the reinsurance intermediary broker shall render accounts to the
 30 insurer detailing all transactions including information necessary to support all
 31 commissions, charges, and other fees received by or owing to the reinsurance

1 intermediary broker and remit the money due under the contract to the insurer within
2 30 days of receipt;

3 (3) money collected for the account of an insurer shall be held by the
4 reinsurance intermediary broker as [IN] a fiduciary [ACCOUNT REQUIRED
5 UNDER AS 21.27.360; THE REINSURANCE INTERMEDIARY BROKER SHALL
6 COMPLY WITH APPLICABLE FIDUCIARY ACCOUNT STATUTES AND
7 REGULATIONS];

8 (4) the reinsurance intermediary broker shall maintain separate
9 accounts and records for each insurer and maintain the records in a form usable by the
10 insurer; the insurer or the authorized representative of the insurer shall have access and
11 the right to audit and the right to copy all accounts and records related to the insurer's
12 business; the director, in addition to the other authority granted in this title, shall have
13 access to all books, bank accounts, and records of the insurance intermediary broker in
14 a form usable to the director;

15 (5) the insurer shall establish written standards for the cession or
16 retrocession of all risks, and the reinsurance intermediary broker shall comply with
17 those standards;

18 (6) the reinsurance intermediary broker shall disclose to the insurer all
19 its relationships with insurers and reinsurers to whom risks are ceded or retroceded;
20 and

21 (7) the contract may not be assigned in whole or in part by the
22 reinsurance intermediary broker.

23 * **Sec. 50.** AS 21.27.690 is amended by adding a new subsection to read:

24 (g) In this section, "transact" has the meaning given in AS 21.90.900.

25 * **Sec. 51.** AS 21.27.760(b) is amended to read:

26 (b) The contract required under (a) of this section must include the following
27 provisions:

28 (1) the reinsurer may terminate the contract for cause upon written
29 notice sent by certified mail to the reinsurance intermediary manager and may suspend
30 the underwriting authority of the reinsurance intermediary manager during a dispute
31 regarding the cause for termination;

1 (2) the reinsurance intermediary manager shall render accounts to the
 2 reinsurer detailing all transactions including information necessary to support all
 3 commissions, charges, and other fees received by or owing to the reinsurance
 4 intermediary manager and remit all money due under the contract to the insurer at
 5 least monthly;

6 (3) money collected for the account of a reinsurer shall be held by the
 7 reinsurance intermediary manager **as** [IN] a fiduciary [ACCOUNT AS DESCRIBED
 8 UNDER AS 21.27.360];

9 (4) [THE REINSURANCE INTERMEDIARY MANAGER SHALL
 10 COMPLY WITH APPLICABLE FIDUCIARY ACCOUNT STATUTES AND
 11 REGULATIONS];

12 (5)] the reinsurance intermediary manager shall maintain a separate
 13 bank account for each reinsurer that it represents;

14 **(5)** [(6) A FIDUCIARY ACCOUNT MUST BE USED FOR] all
 15 payments on behalf of the reinsurer **shall be held by the reinsurance intermediary**
 16 **manager as a fiduciary;**

17 **(6)** [(7)] the reinsurance intermediary manager may retain not more
 18 than three months estimated claims payments and allocated loss adjustment expenses;

19 **(7)** [(8)] the reinsurance intermediary manager shall maintain separate
 20 accounts and records for each reinsurer and maintain the records in a form usable by
 21 the reinsurer; the reinsurer or its authorized representative shall have access and the
 22 right to audit and the right to copy all accounts and records related to the reinsurer's
 23 business; the director, in addition to the other authority granted in this title, shall have
 24 access to all books, bank accounts, and records of the reinsurance intermediary
 25 manager in a form usable to the director;

26 **(8)** [(9)] the contract may not be assigned in whole or in part by the
 27 reinsurance intermediary manager;

28 **(9)** [(10)] the reinsurer shall establish written underwriting and rating
 29 standards for the acceptance, rejection, or cession of all risks and the reinsurance
 30 intermediary manager shall comply with the standards;

31 **(10)** [(11)] compensation including rates, terms, purposes of

1 commissions, charges, and other fees that the reinsurance intermediary manager may
2 levy against the reinsurer;

3 (11) [(12)] if the contract permits the reinsurance intermediary
4 manager to settle claims on behalf of the reinsurer,

5 (A) written settlement authority must be provided by the
6 reinsurer and may be terminated for cause upon the insurer's written notice by
7 certified mail to the reinsurance intermediary manager or upon the termination
8 of the contract; the reinsurer may suspend the settlement authority during a
9 dispute regarding the cause of termination;

10 (B) claims shall be reported to the reinsurer within 30 days;

11 (C) a copy of the claim file shall be sent to the reinsurer upon
12 request or as soon as it becomes known that the claim

13 (i) has the potential to exceed an amount determined by
14 the director or exceeds the limit set by the insurer, whichever is less;

15 (ii) involves a coverage dispute;

16 (iii) may exceed the reinsurance intermediary manager's
17 claims settlement authority;

18 (iv) is open for more than six months;

19 (v) involves extra contractual allegations; or

20 (vi) is closed by payment in excess of an amount set by
21 the director or an amount set by the insurer, whichever is less;

22 (D) the reinsurance intermediary manager shall comply with
23 unfair claims settlement statutes and regulations;

24 (E) transmission of electronic data at least once a month if
25 electronic claims files are in existence;

26 (F) claim files shall be the property of both the reinsurer and
27 reinsurance intermediary manager, but upon an order of liquidation of the
28 reinsurer, the files shall become the sole property of the reinsurer or the
29 reinsurer's estate; the reinsurance intermediary manager shall have reasonable
30 access to and the right to copy the files on a timely basis;

31 (12) [(13)] if the contract provides for sharing of interim profits by the

1 reinsurance intermediary manager, the interim profits may not be paid until

2 (A) one calendar year after the end of each underwriting period
3 for property risks and five years after the end of each underwriting period for
4 casualty risks;

5 (B) a later period established by the director for specified kinds
6 or classes of insurance; and

7 (C) the profits have been verified under (e)(2) of this section;

8 **(13)** [(14)] the reinsurance intermediary manager may not

9 (A) cede retrocessions on behalf of the reinsurer, except that
10 the reinsurance intermediary manager may cede facultative retrocessions under
11 obligatory agreements if the contract with the reinsurer contains reinsurance
12 underwriting guidelines including a list of reinsurers with which automatic
13 agreements are in effect, and, for each reinsurer, the coverage and amounts or
14 percentages that may be reinsured, and commission schedules;

15 (B) commit the reinsurer to participate in reinsurance
16 syndicates;

17 (C) appoint a subagent unless the scope of the subagent's
18 license as an insurance producer includes the kinds and classes of insurance for
19 which the subagent is appointed;

20 (D) pay or commit the reinsurer to pay a claim, net of
21 retrocessions, the amount of which exceeds one percent of the reinsurer's
22 policyholder's surplus as of December 31 of the last completed calendar year
23 without the prior written approval of the reinsurer for the settlement and the
24 approval is received after the reinsurer has been notified in writing that the
25 claim settlement will exceed one percent of the reinsurer's policyholder's
26 surplus as of December 31 of the last completed calendar year;

27 (E) collect payment from a retrocessionaire or commit the
28 reinsurer to a claim settlement with a retrocessionaire without prior written
29 approval of the reinsurer, but if prior written approval is given, a complete
30 report shall be forwarded to the reinsurer within 30 days;

31 (F) jointly employ an individual who is employed with the

1 reinsurer; or

2 (G) delegate reinsurance intermediary manager authority to
3 another person;

4 **(14)** [(15)] if the insurer is domiciled in this state or the reinsurance
5 intermediary manager has a place of business in this state, a copy of the contract must
6 be filed with and approved by the director at least 30 days before the reinsurance
7 intermediary manager transacts business on behalf of the reinsurer; if the reinsurer is
8 not domiciled in this state or the reinsurance intermediary manager transacts business
9 relative to a subject resident, located, or to be performed in this state from a place of
10 business not physically located in this state, a copy of the contract required in this
11 section must be filed with and approved by the director at least 30 days before the
12 reinsurance intermediary manager transacts business on behalf of the insurer in this
13 state or relative to a subject resident, located, or to be performed in this state if the
14 insurer or the reinsurance intermediary manager are domiciled in a state not accredited
15 by the National Association of Insurance Commissioners; and

16 **(15)** [(16)] if the contract is not required to be approved in advance by
17 the director, the insurer shall provide written notification to the director within 30 days
18 of the entry into or termination of a contract with a reinsurance intermediary manager;
19 the notice must include a statement of duties to be performed by the reinsurance
20 intermediary manager on behalf of the reinsurer, the kinds and classes of insurance for
21 which the reinsurance intermediary manager has authorization to act, and other
22 information required by the director.

23 * **Sec. 52.** AS 21.27.760 is amended by adding a new subsection to read:

24 (l) In this section, "transact" has the meaning given in AS 21.90.900.

25 * **Sec. 53.** AS 21.27.790(2) is amended to read:

26 (2) **if required by the director by regulation maintain a bond as**
27 **described in AS 21.27.190 in an amount acceptable to the director** [HAVE AND
28 MAINTAIN WHILE LICENSED, A BOND IN THE SUM OF NOT LESS THAN
29 \$200,000 AGGREGATE LIABILITY AND] with the conditions that the surplus lines
30 broker conduct business under the provisions of this title, promptly remit the taxes and
31 fees provided by law, return premiums promptly when due, and pay proper losses

1 promptly;

2 * **Sec. 54.** AS 21.27.800(g) is amended to read:

3 (g) In addition to any other penalty provided by law,

4 (1) the director shall revoke the license of a trainee surplus lines broker
5 who the director determines has violated the provisions of this section; a licensee or
6 other person having possession or custody of the license shall immediately surrender
7 the license to the director either personally or by certified mail;

8 (2) if the director determines under AS 21.06.170 - 21.06.240 that the
9 employing surplus lines broker knew of or should have known that a trainee licensed
10 under this section violated this section, the employing surplus lines broker and firm,
11 **and the compliance officer** [PRINCIPAL, AND MANAGER], if any, are subject to
12 the penalties provided under AS 21.27.440.

13 * **Sec. 55.** AS 21.27.840(f) is amended to read:

14 (f) A trainee independent adjuster shall at all times be working at the direction
15 and under the supervision of the employing licensed independent adjuster, and the file
16 and record documentation shall reflect the direction and supervision. The employing
17 licensed independent adjuster and its firm, **and the compliance officer** [MANAGER,
18 AND PRINCIPAL], if any, are responsible for all insurance actions of the trainee
19 independent adjuster.

20 * **Sec. 56.** AS 21.27.840(i) is amended to read:

21 (i) In addition to any other penalty provided by law,

22 (1) a trainee independent adjuster who the director determines has
23 violated the provisions of this section shall have its license terminated; a licensee or
24 other person having possession or custody of the license shall within 30 days surrender
25 the license to the director either personally or by certified mail;

26 (2) if the director determines under AS 21.06.170 - 21.06.240 that the
27 employing licensed independent adjuster knew of or should have known that a trainee
28 independent adjuster violated this section, the employing licensed independent
29 adjuster and firm, **and the compliance officer** [PRINCIPAL AND MANAGER], if
30 any, are subject to the penalties provided under AS 21.27.440.

31 * **Sec. 57.** AS 21.27.900(10) is amended to read:

1 (10) "individual" means a natural person required to be licensed under
 2 AS 21.27.010 [WHO IS NOT ACTING IN ASSOCIATION WITH TWO OR MORE
 3 LICENSEES, EITHER IN PARTNERSHIP, CORPORATION, OR OTHERWISE,
 4 OR AN ORGANIZATION IN WHICH A SINGLE LICENSEE HAS 50 PERCENT
 5 OR MORE OWNERSHIP INTEREST IN THE ORGANIZATION];

6 * **Sec. 58.** AS 21.27.900 is amended by adding new paragraphs to read:

7 (23) "compliance officer" means a licensee under this chapter that is
 8 responsible for a firm's compliance with the insurance statutes and regulations of this
 9 state;

10 (24) "home state" means the District of Columbia or a state or territory
 11 of the United States in which an insurance producer maintains the producer's principal
 12 place of residence or principal place of business and is licensed to act as an insurance
 13 producer;

14 (25) "insurance producer" means a person who sells, solicits, or
 15 negotiates insurance or insurance products;

16 (26) "license" means, unless the context requires otherwise, a
 17 document issued by the director of insurance authorizing a person to act for the type,
 18 class, and lines of authority specified in the document;

19 (27) "limited lines credit insurance" includes credit life, credit
 20 disability, credit property, credit unemployment, involuntary unemployment, mortgage
 21 life, mortgage guaranty, mortgage disability, guaranteed automobile protection
 22 insurance, and any other form of insurance offered in connection with an extension of
 23 credit that is limited to partially or wholly extinguishing that credit obligation that the
 24 director of insurance determines must be designated a form of limited lines credit
 25 insurance;

26 (28) "limited lines" means those lines of insurance defined in
 27 AS 21.27.150 or any other line of insurance that the director of insurance designates
 28 by order as a limited line;

29 (29) "negotiate" means the act of conferring directly with or offering
 30 advice directly to a purchaser or prospective purchaser of a particular contract of
 31 insurance concerning any of the substantive benefits, terms, or conditions of the

1 contract if the person engaged in that act either sells insurance or obtains insurance
2 from insurers for purchasers;

3 (30) "sells" means to exchange a contract of insurance by any means,
4 for money or its equivalent, on behalf of an insurance company;

5 (31) "solicit" means attempting to sell insurance or asking or urging a
6 person to apply for a particular kind of insurance from a particular company;

7 (32) "transact" or "transact business" means sell, solicit, or negotiate
8 insurance or insurance products;

9 (33) "uniform application" means the most recent version of the
10 uniform application of the National Association of Insurance Commissioners;

11 (34) "uniform business entity application" means the most recent
12 version of the uniform business entity application of the National Association of
13 Insurance Commissioners.

14 * **Sec. 59.** AS 21.36 is amended by adding new sections to read:

15 **Sec. 21.36.162. Nondisclosure of an individual's personal financial and**
16 **personal health information.** (a) A person may not disclose personal financial or
17 personal health information regarding an individual who seeks to obtain, obtains, or
18 has obtained an insurance product or service, except when and only to the extent that
19 the disclosure is

20 (1) authorized in writing by the individual whose personal financial or
21 personal health information is sought to be disclosed;

22 (2) required by federal or state law or federal or state regulation;

23 (3) compelled by a subpoena, search warrant, or other order issued by
24 a court or administrative agency of competent jurisdiction;

25 (4) for the performance of any of the following insurance functions:
26 claims administration; claims adjustment and management; detection, investigation, or
27 reporting of actual or potential fraud, misrepresentation, or criminal activity;
28 underwriting; policy placement or issuance; loss control; rate making and guaranty
29 fund functions; reinsurance and excess loss insurance; risk management; case
30 management; disease management; quality assurance; quality improvement;
31 performance evaluation; provider credentialing verification; utilization review; peer

1 review activities; actuarial, scientific, medical, or public policy research; grievance
 2 procedures; internal administration of compliance, managerial, and information
 3 systems; policyholder service functions; auditing; reporting; database security;
 4 administration of consumer disputes and inquiries; external accreditation standards;
 5 the replacement of a group benefit plan or workers' compensation policy or program;
 6 activities in connection with a sale, merger, transfer, or exchange of all or part of a
 7 business or operating unit; or other functions that the director may approve as
 8 necessary for the performance of the above functions and that are fair and reasonable
 9 to the interest of the insurance consumer;

10 (5) permitted without requiring authorization under federal privacy
 11 rules adopted under 42 U.S.C. 300gg-92 (Health Insurance Portability and
 12 Accountability Act of 1996) by the United States Department of Health and Human
 13 Services; or

14 (6) required to enforce the person's rights or the rights of other persons
 15 engaged in carrying out an insurance transaction or providing an insurance product or
 16 service that an individual requests or authorizes.

17 (b) The director may adopt regulations to implement this section that provide
 18 not less than the protection of an individual's personal financial and personal health
 19 information provided in this section.

20 (c) This section does not restrict disclosure of publicly available information.

21 (d) This section does not prohibit a person from disclosing personal financial
 22 information if

23 (1) the disclosure is necessary to market a financial product or service
 24 of the person, including a financial product or service that is jointly offered, endorsed,
 25 or sponsored by another person under a written contract;

26 (2) the person receiving the information agrees in writing not to
 27 disclose or use the information other than to carry out the purposes for which the
 28 person disclosed the information; and

29 (3) before disclosing the information, the person seeking to disclose
 30 the information provides a clear and conspicuous written notice to the individual who
 31 is the subject of the information that includes

- 1 (A) the categories of information that the person collects;
- 2 (B) the categories of information that will be disclosed;
- 3 (C) the categories of people to whom the information will be
- 4 disclosed; and
- 5 (D) an explanation of the individual's right to opt out of
- 6 disclosure and a reply form for the individual to use to opt out; and
- 7 (4) the individual who is the subject of the information does not opt
- 8 out.
- 9 (e) For purposes of this section,
- 10 (1) "opt out" means to choose not the disclose information to another
- 11 person;
- 12 (2) "personal financial information" means any information or data
- 13 about a person that is not personal health information;
- 14 (3) "personal health information" means any information or data
- 15 except age or gender, whether oral or recorded in any form or medium, created by or
- 16 derived from a health care provider or other person that relates to
- 17 (A) the past, present, or future physical, mental, or behavioral
- 18 health or condition of an individual;
- 19 (B) the provision of health care to an individual; or
- 20 (C) payment for the provision of health care to an individual;
- 21 (4) "publicly available information" means any information that a
- 22 person has reasonable basis to believe is lawfully made available to the general public
- 23 from
- 24 (A) federal, state, or local government records;
- 25 (B) widely distributed media; or
- 26 (C) disclosures to the general public that are required to be
- 27 made by federal, state, or municipal law.

28 **Sec. 21.36.164. Licensing of persons in a financial institution.** A financial

29 institution may not allow a person to transact insurance in an office of the institution

30 or on behalf of the institution, unless the person is licensed as required under

31 AS 21.27.

1 * **Sec. 60.** AS 21.36.165 is amended to read:

2 **Sec. 21.36.165. Anticoercion and antitying [FAVORED AGENT OR**
3 **INSURER; COERCION OF DEBTORS].** A person may not

4 (1) require, as a condition to the lending of money or extension of
5 credit, or a renewal of the loan or extension of credit, that the obligee of the money or
6 credit negotiate a policy or contract of insurance through any particular person or
7 group of persons;

8 (2) disapprove the insurance policy provided by a borrower for the
9 protection of property securing credit or a **loan** [LIEN] if disapproval is based on other
10 than reasonable standards uniformly applied and relating to the extent of coverage
11 required and the financial soundness and the services of the insurer; the standards may
12 not discriminate against a particular type of insurer [,] or call for the disapproval of a
13 policy containing coverage in addition to that required;

14 (3) **unless charges are required when the person handling the**
15 **insurance transaction is a licensee,** require a **consumer** [BORROWER,
16 MORTGAGOR, PURCHASER], insurer, broker, or agent to pay a separate charge for
17 handling an insurance policy required as security for a loan on real property, or to pay
18 a separate charge to substitute the insurance policy of one insurer for that of another,
19 except that interest may be charged on premium loans **or** [OF] premium advancements
20 in accordance with the security instrument [;

21 (4) USE OR DISCLOSE INFORMATION RESULTING FROM A
22 REQUIREMENT THAT A BORROWER, MORTGAGOR, OR PURCHASER
23 FURNISH INSURANCE OF ANY KIND ON REAL PROPERTY BEING
24 CONVEYED OR USED AS COLLATERAL SECURITY TO A LOAN, WHEN THE
25 INFORMATION IS TO THE ADVANTAGE OF THE MORTGAGEE, VENDOR,
26 OR LENDER, OR IS TO THE DETRIMENT OF THE BORROWER,
27 MORTGAGOR, PURCHASER, INSURER, AGENT, OR BROKER COMPLYING
28 WITH THE REQUIREMENT].

29 * **Sec. 61.** AS 21.36.165 is amended by adding new subsections to read:

30 (b) A person shall

31 (1) use separate documents for an insurance transaction, other than

1 credit insurance or flood insurance, and for a credit transaction; and

2 (2) maintain separate and distinct records relating to insurance
3 transactions, including consumer complaint information, and make the records
4 available to the director for inspection upon notice.

5 (c) A person may not include insurance premiums in a primary credit
6 transaction without the consent of the consumer.

7 (d) Nothing in this section prohibits a person from informing a consumer or
8 prospective consumer that insurance is required in order to obtain a loan or credit, that
9 loan or credit approval is contingent on the procurement of acceptable insurance by
10 the consumer, or that insurance is available from the person.

11 * **Sec. 62.** AS 21.36 is amended by adding new sections to read:

12 **Sec. 21.36.167. Misrepresentation in financial institution sales.** In the sale
13 of insurance by a financial institution, a person may not engage in any practice or use
14 an advertisement that may tend to mislead or deceive a consumer or cause a consumer
15 to erroneously believe that

16 (1) the insurance is backed by or a return on the insurance is
17 guaranteed by the state, the federal government, the person, or the Federal Deposit
18 Insurance Corporation;

19 (2) the state or federal government

20 (A) will pay a claim under an insurance contract that is an
21 obligation of or was sold by the person;

22 (B) is responsible for the insurance sales activities of the
23 person; or

24 (C) guarantees the credit of the person;

25 (3) for insurance that contains investment risk, the insurance does not
26 contain investment risk, the principal may not be lost, or the value of the insurance
27 may not decline;

28 (4) the lending of money, extension of credit, or a renewal of a loan is
29 conditioned on the purchase of insurance from the person and that insurance may not
30 be purchased from another source.

31 **Sec. 21.36.168. Disclosures required in financial institution sales.** (a) In

1 the sale of insurance by a financial institution, a person shall disclose both orally and
2 in writing to a consumer before the initial purchase of insurance that

3 (1) the insurance is not a deposit or other obligation of the person;

4 (2) the insurance is not guaranteed by the person or the person
5 soliciting insurance;

6 (3) the insurance is not insured by the Federal Deposit Insurance
7 Corporation or other agency of the United States, the financial institution, or the
8 person;

9 (4) if the insurance contains risk, the insurance contains investment
10 risk and the insurance may lose value;

11 (5) the consumer is not required to negotiate a policy or contract of
12 insurance through any particular person or group of persons as a condition to the
13 lending of money or extension of credit, or a renewal of the loan or extension of
14 credit, except that the person may impose reasonable requirements uniformly applied
15 and relating to the extent of coverage required and the financial soundness and the
16 services of the insurer and that the standards may not discriminate against a particular
17 type of insurer or require disapproval of a policy containing coverage in addition to
18 that required.

19 (b) A person shall also provide the disclosures required in (a) of this section to
20 a consumer both orally and in writing at the time of application for an extension of
21 credit.

22 (c) If an application for insurance is made by telephone, written disclosure as
23 required in (a) of this section must be mailed to the consumer within three working
24 days.

25 (d) A person may provide the disclosures required in (a) of this section
26 electronically, if

27 (1) the consumer affirmatively consents to electronic disclosure; and

28 (2) the disclosures are provided in a format that the consumer is able to
29 access at a later time by a method such as through printing or storing the disclosures
30 electronically.

31 (e) A person shall provide the disclosures required in (a) of this section in a

1 meaningful form and in a conspicuous, simple, direct, and understandable manner that
2 is designed to call attention to the information provided.

3 (f) A person shall obtain a written acknowledgment or, in the case of an
4 electronic disclosure provided in compliance with (d) of this section, a written or
5 electronic acknowledgment, by the consumer that the consumer received the
6 disclosures as required in this section.

7 (g) This section does not require that a person provide the disclosures required
8 in this section in advertisements that are of a general nature or that describe or list the
9 services or products offered by a financial institution or on behalf of a financial
10 institution.

11 (h) In this section, "meaningful form" means

12 (1) for other than an electronic form, a form of disclosure that is
13 provided to a consumer orally and in writing;

14 (2) for an electronic form, a disclosure that a consumer cannot
15 electronically bypass before purchasing insurance.

16 **Sec. 21.36.169. Definitions for AS 21.36.164 - 21.36.169.** In AS 21.36.164 -
17 21.36.169, unless the context otherwise requires,

18 (1) "consumer" means a person who obtains, applies to obtain, or is
19 solicited to obtain insurance from or on behalf of a financial institution;

20 (2) "financial institution" means a bank holding company under
21 12 U.S.C. 1841 (Bank Holding Company Act of 1956); a credit union under 12 U.S.C.
22 1752 (Federal Credit Union Act), a bank, savings bank, savings and loan association,
23 or trust company, or any depository institution under 12 U.S.C. 1813(c)(1); and any
24 other person authorized to take federally insured deposits and make loans in the state;
25 "financial institution" includes any employee or agent of a financial institution and any
26 nondepository affiliate or subsidiary of a financial institution but only in the instances
27 when the nondepository affiliate or subsidiary is soliciting the sale or purchase of
28 insurance recommended or sponsored by, on the premises of, or in connection with a
29 product offering of the financial institution; "financial institution" does not include an
30 insurer.

31 * **Sec. 63.** AS 21.36 is amended by adding a new section to read:

1 **Sec. 21.36.355. Felony convictions involving dishonesty or breach of trust.**

2 (a) A person who has a conviction for a felony involving dishonesty or a breach of
3 trust may not engage or participate in the business of insurance without receiving prior
4 written consent by the director as required under 18 U.S.C. 1033 and 1034 (Violent
5 Crime Control and Law Enforcement Act of 1994).

6 (b) A person who fails to seek prior written consent from the director under (a)
7 of this section is in violation of this chapter.

8 (c) A person who is engaged in the business of insurance may not knowingly
9 permit the participation in the business of insurance by a person who has been
10 convicted of a felony involving dishonesty or breach of trust except as allowed under
11 (a) of this section.

12 * **Sec. 64.** AS 21.36.360 is amended by adding a new subsection to read:

13 (r) The director of insurance may adopt regulations to implement, define, and
14 enforce this section.

15 * **Sec. 65.** AS 21.36.430(a) is amended to read:

16 (a) **A person transacting** [AN INSURER OFFERING] insurance in this state
17 may not (1) refuse to issue or renew insurance coverage; (2) **limit the scope of**
18 **insurance coverage;** (3) cancel an existing policy of insurance; (4) [(3)] deny a
19 covered claim; or (5) [(4)] increase the premium on an insurance policy if the refusal,
20 cancellation, denial, or increase results only from the fact that the person was a victim
21 of domestic violence **or a provider of services to victims of domestic violence.**

22 * **Sec. 66.** AS 21.36.430 is amended by adding a new subsection to read:

23 (c) In this section, "domestic violence" means the occurrence of one or more
24 of the following by a current or former family member, household member, intimate
25 partner, or caretaker:

26 (1) attempting to cause, causing, or threatening another person with
27 physical harm, severe emotional distress, psychological trauma, rape, or sexual
28 assault;

29 (2) engaging in a course of conduct or repeatedly committing acts
30 toward another person, including following the person without proper authority, under
31 circumstances that place the person in reasonable fear of bodily injury or physical

1 harm;

2 (3) subjecting another person to false imprisonment; or

3 (4) attempting to cause or causing damage to property so as to
4 intimidate or attempt to control the behavior of another person.

5 * **Sec. 67.** AS 21.89.080 is repealed and reenacted to read:

6 **Sec. 21.89.080. Electronic submissions.** The director may, by regulation or
7 by order, provide for the electronic submission of any information or written
8 submission required by this title and for an electronic confirmation of a required
9 submission.

10 * **Sec. 68.** AS 21.90.900(24) is repealed and reenacted to read:

11 (24) "insurance producer" has the meaning given in AS 21.27.900;

12 * **Sec. 69.** AS 21.27.150(b), 21.27.170, 21.27.405(c), 21.27.530(5), 21.27.900(14), and
13 21.27.900(16) are repealed.

14 * **Sec. 70.** AS 21.27.190(d), 21.27.365, and 21.27.900(7) are repealed.

15 * **Sec. 71.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 **INDIRECT COURT RULE AMENDMENT.** (a) The provisions of AS 21.27.110(h),
18 as repealed and reenacted by sec. 15 of this Act, have the effect of amending Rule 402,
19 Alaska Rules of Evidence, by making inadmissible in court, except under certain
20 circumstances, the statement of reasons for termination of an appointment under
21 AS 21.27.110.

22 (b) The provisions of AS 21.27.110(h), as repealed and reenacted by sec. 15 of this
23 Act, that relate to admissibility of evidence in court take effect only if (a) of this section
24 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
25 of the State of Alaska.

26 * **Sec. 72.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 **TRANSITION: REGULATIONS.** The director of insurance may immediately
29 proceed to adopt regulations necessary to implement the changes made by this Act. The
30 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
31 effective date of the statutory change.

1 * **Sec. 73.** Sections 1, 9, 10, 67, and 72 of this Act take effect immediately under
2 AS 01.10.070(c).

3 * **Sec. 74.** Sections 26 - 32, 37, 38, 40, 41, 43, 46, 49, 51, 63, and 70 of this Act take effect
4 July 1, 2002.

5 * **Sec. 75.** Sections 59 - 62, and 64 - 66 of this Act take effect July 1, 2001.

6 * **Sec. 76.** Except as provided in secs. 73 - 75 of this Act, this Act takes effect January 1,
7 2002.