

**CS FOR HOUSE BILL NO. 184(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 4/29/01**

**Referred: Rules**

**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 secs. 9 - 73, 75 - 78, 81, 82, 84 - 86, and 89 of  
7 this Act is to implement insurance reforms in AS 21 as required by P.L. 106-102 (Gramm-  
8 Leach-Bliley Act) to modernize financial services related to the business of insurance and to  
9 further this state as an attractive place for investment and other commerce involving the  
10 insurance industry.

11 \* **Sec. 2.** AS 21.18 is amended by adding a new section to read:

12 **Sec. 21.18.170. Valuation of investments.** For the purposes of this chapter,  
13 the value or amount of an investment acquired, held, or invested in or an investment  
14 practice engaged in under this title, unless otherwise specified in this title, must be the

1 value at which assets of an insurer are required to be reported for accounting purposes  
 2 under this title and as required under procedures prescribed in published accounting  
 3 and valuation standards of the National Association of Insurance Commissioners,  
 4 including the purposes and procedures manual of the securities valuation office, the  
 5 valuation of securities manual, the accounting practices and procedures manual, and  
 6 the annual statement instructions or valuation procedures officially adopted by the  
 7 National Association of Insurance Commissioners.

8 \* **Sec. 3.** AS 21.21.010 is repealed and reenacted to read:

9 **Sec. 21.21.010. Scope.** This chapter applies only to an investment and  
 10 investment practice of a domestic insurer and a United States branch of an alien  
 11 insurer entered through this state. This chapter does not apply to separate accounts of  
 12 a life insurer.

13 \* **Sec. 4.** AS 21.21.020(d) is amended to read:

14 (d) An investment limitation based upon the amount of the insurer's assets or  
 15 particular funds shall relate to the assets or funds shown by the insurer's annual  
 16 statement **most recently required to be** [AS OF THE PRECEDING DECEMBER 31,  
 17 DATE OF ACQUISITION OF THE INVESTMENT BY THE INSURER, OR  
 18 SHOWN BY A CURRENT FINANCIAL STATEMENT] filed with the director.

19 \* **Sec. 5.** AS 21.21.020 is amended by adding a new subsection to read:

20 (e) For purposes of determining compliance with investment limitations  
 21 imposed under this chapter, the director or an insurer shall use admitted asset values.

22 \* **Sec. 6.** AS 21.21.255 is amended to read:

23 **Sec. 21.21.255. Regulation of securities held by insurers.** As provided  
 24 under 15 U.S.C. 77r-1(b) and (c) (Secondary Mortgage Market Enhancement Act of  
 25 1984), securities that are purchased, held, or invested in by an insurer **are subject to**  
 26 **regulations adopted under AS 21.18.160** [SHALL BE REGULATED UNDER  
 27 AS 21.18.150, AS 21.21.050, 21.21.260, 21.21.270], and other applicable provisions  
 28 of this title.

29 \* **Sec. 7.** AS 21.21 is amended by adding a new section to read:

30 **Sec. 21.21.420. Regulations.** The director shall adopt regulations regarding  
 31 insurance company investments that are consistent with the defined limits standards

1 for investments of the National Association of Insurance Commissioners.

2 \* **Sec. 8.** AS 21.24.030(a) is amended to read:

3 (a) All deposits required under AS 21.09.090 for authority to transact  
4 insurance in this state shall consist of certificates of deposit [,] or any combination of  
5 **rated credit instruments of the United States, Canada, or a state of the United**  
6 **States** [SECURITIES OF THE KINDS DESCRIBED IN AS 21.21.060, 21.21.080,  
7 AND 21.21.090].

8 \* **Sec. 9.** AS 21.27.010(e) is repealed and reenacted to read:

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

12 (1) is not directly compensated based on volume of premiums that may  
13 result from those services; and

14 (2) does not transact insurance.

15 \* **Sec. 10.** AS 21.27.010(j) is amended to read

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

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

20 (2) only secures and forwards information required for the purposes of,  
21 **and does not receive a commission for, any of the following services:**

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

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

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

25 **(iii) group annuities;**

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

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

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

1                    **(D) performing administrative services related to mass-**  
 2                    **marketed property and casualty insurance** [COVERING THE UNPAID  
 3                    BALANCE, OR REMAINING PAYMENTS PROPOSED TO BE MADE, IN  
 4                    CONNECTION WITH THE PURCHASE OF MERCHANDISE OR  
 5                    SERVICES, IF THE PERSON RECEIVES NO COMPENSATION,  
 6                    DIRECTLY OR INDIRECTLY, ARISING OUT OF OR IN ANY WAY  
 7                    RELATING TO THE INSURANCE TRANSACTIONS]; [OR]

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

11                    (A) furnish premium estimates from published or printed lists  
 12                    of standard rates if the person does not advise, counsel, or suggest what  
 13                    coverage may be needed, or otherwise solicit insurance coverage;

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

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

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

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

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

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

4                   **(A) performs no other insurance-related activities in this**  
 5 **state;**

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

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

9                   **(6) is not a resident of this state, but sells, solicits, or negotiates**  
 10 **commercial property and casualty insurance for an insured with risks located in**  
 11 **more than one state if the person is licensed as an insurance producer in the state**  
 12 **where the insured maintains its principal place of business and the contract of**  
 13 **insurance covers risks located in that state;**

14                   **(7) is a salaried full-time employee who counsels or advises the**  
 15 **person's employer regarding the insurance interests of the employer or of the**  
 16 **subsidiaries or business affiliates of the employer, if the employee does not sell or**  
 17 **solicit insurance or receive a commission from the sale or solicitation of**  
 18 **insurance;**

19                   **(8) is an employer or association or the employer's or association's**  
 20 **officer, director, employee, or the trustee of an employee trust plan, if the person**  
 21 **is not compensated, directly or indirectly, for transacting insurance and is**  
 22 **engaged in the administration or operation of a plan offering employee benefits**  
 23 **for the employer's or association's own employees, or the employees of its**  
 24 **subsidiaries or affiliates; to qualify under this paragraph, the plan must include**  
 25 **insurance for employees; or**

26                   **(9) is an officer, director, or employee of an admitted insurer who**  
 27 **does not receive a commission on policies written or sold to risks resident,**  
 28 **located, or to be performed in this state if the officer's, director's, or employee's**  
 29 **functions are executive, administrative, managerial, clerical, or a combination of**  
 30 **these and are only indirectly related to the transaction of insurance; relates to**  
 31 **underwriting or loss control; or are in the capacity of an agency supervisor**

1 **where the activities are limited to providing technical assistance to insurance**  
 2 **producers and whose activities do not include transacting insurance.**

3 \* **Sec. 11.** AS 21.27.020(b) is amended to read:

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

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

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

11 (3) **shall** successfully pass an examination required under  
 12 AS 21.27.060;

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

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

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

18 \* **Sec. 12.** AS 21.27.020(c) is repealed and reenacted to read:

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

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

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

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

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

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

31 (6) notify the director, in writing, within 30 days of a change in the

1 firm's compliance officer or of the termination of employment of an individual in the  
2 firm licensee.

3 \* **Sec. 13.** AS 21.27.020(f) is amended to read:

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

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

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

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

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

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

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

27 (a) A licensee shall notify the director within 30 days in writing [BY  
28 CERTIFIED MAIL] of a change in residence, employment that is licensed under this  
29 chapter, place of business, legal name, fictitious name or alias, mailing address, or  
30 phone number. A licensee shall report in writing to the director any  
31 administrative action taken against the licensee by a governmental agency of

1 another state or by a governmental agency of another jurisdiction within 30 days  
 2 after the final disposition of the action. A licensee shall submit to the director the  
 3 final order and other relevant legal documents in the action. A licensee shall  
 4 report to the director any criminal prosecution of the licensee in this or another  
 5 state or jurisdiction within 30 days after the date of filing of the criminal  
 6 complaint, indictment, information, or citation in the prosecution. The licensee  
 7 shall submit to the director a copy of the criminal complaint, calendaring order,  
 8 and other relevant legal documents in the prosecution [; A SUSPENSION,  
 9 REVOCATION, OR DISCIPLINARY ACTION OF A LICENSE BY ANOTHER  
 10 STATE OR JURISDICTION; OR A CONVICTION OF A MISDEMEANOR OR  
 11 FELONY].

12 \* **Sec. 15.** AS 21.27.025(b) is amended to read:

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

16 (1) the licensee's name;

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

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

19 and

20 (4) other information required by the director.

21 \* **Sec. 16.** AS 21.27.040(a) is amended to read:

22 (a) Application for a license shall be made to the director upon forms  
 23 prescribed by the director. As a part of or in connection with the application, the  
 24 applicant shall furnish information concerning the applicant's identity, personal  
 25 history, experience, business record, purposes, and other pertinent facts that the  
 26 director may reasonably require. The applicant shall declare, [UNDER OATH AND]  
 27 subject to penalty of denial, nonrenewal, suspension, or revocation of a license issued  
 28 by the director that the statements made in or in connection with the application are  
 29 true, correct, and complete to the best of the applicant's knowledge and belief.  
 30 Payment of an application fee established under AS 21.06.250 must be submitted with  
 31 the application.

1 \* **Sec. 17.** AS 21.27.040 is amended by adding a new subsection to read:

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

8 \* **Sec. 18.** AS 21.27.060(a) is amended to read:

9 (a) Except as provided in this chapter, an applicant for an individual license  
10 and a **compliance officer** [PRINCIPAL OR MANAGER] applicant for a firm license  
11 shall, before the issuance of the license, personally take and pass, to the satisfaction of  
12 the director, an examination that tests the knowledge and competence of the applicant  
13 as to the applicant's duties and responsibilities as a licensee and the insurance **statutes**  
14 [LAWS] and regulations of the state.

15 \* **Sec. 19.** AS 21.27.060(c) is repealed and reenacted to read:

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

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

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

29 \* **Sec. 20.** AS 21.27.060(d) is amended to read:

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

31 (1) for a limited license under **AS 21.27.150(a)(1), (5), or (6)**

1 [AS 21.27.150(a)(1), (2), (6), OR (7)]; **or**

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

6 (3) WHOSE LICENSE IN ITS RESIDENT JURISDICTION  
7 REQUIRES THE SAME QUALIFICATIONS AS THE LICENSE APPLIED FOR IN  
8 THIS STATE IF THE LICENSE IN ALL JURISDICTIONS IS IN GOOD  
9 STANDING].

10 \* **Sec. 21.** AS 21.27.100 is amended by adding new subsections to read:

11 (f) An insurer may appoint an insurance producer to all or some insurers  
12 within the insurer's holding company system or group by the filing of a single  
13 appointment under this subsection.

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

17 \* **Sec. 22.** AS 21.27.110 is repealed and reenacted to read:

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

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

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

31 (d) If, after termination and notice under (b) of this section, an insurer,

1 reinsurer, or authorized representative discovers additional information showing that  
2 the appointee whose appointment was terminated has engaged in an activity identified  
3 in AS 21.27.410 during the period of the appointment, the insurer, reinsurer, or  
4 authorized representative shall, on a form or in a format prescribed by the director,  
5 promptly notify the director.

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

12 (f) Within 30 days after the appointee receives notification in accordance with  
13 (c) of this section, the appointee may file written comments concerning the substance  
14 of the notification with the director and must provide a copy of the written comments  
15 to the insurer, reinsurer, or authorized representative. The written comments filed  
16 with the director must be included with each report distributed or disclosed concerning  
17 a reason about the termination of the appointment.

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

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

29 (i) If an insurer, reinsurer, or authorized representative fails to report as  
30 required under this section or is found by a court to have knowingly or intentionally  
31 falsely made that report, the director may, after notice and hearing, suspend or revoke

1 the license or certificate of authority of the insurer, reinsurer, or authorized  
2 representative and may impose a penalty in accordance with AS 21.27.440.

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

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

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

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

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

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

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

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

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

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

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

29 (7) limited lines credit insurance;

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

1 \* **Sec. 24.** AS 21.27.130 is amended to read:

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

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

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

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

10 **(3)** [(4)] the effective date and expiration date of the license;

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

13 **(5)** [(6)] the date of issuance of the license;

14 **(6)** [(7)] each fictitious name and alias under which the licensee may  
15 do business; and

16 **(7)** [(8)] other information required by the director.

17 \* **Sec. 25.** AS 21.27.130 is amended by adding a new subsection to read:

18 (b) A license issued by the director does not in itself create any authority,  
19 actual, apparent, or inherent, in the holder of the license to represent or commit an  
20 insurer.

21 \* **Sec. 26.** AS 21.27.140(b) is amended to read:

22 (b) A firm may not be licensed as an insurance producer, managing general  
23 agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus  
24 lines broker, or independent adjuster, or transact insurance unless each individual  
25 employed as an insurance producer, managing general agent, surplus lines broker,  
26 trainee insurance producer, trainee independent adjuster, or independent adjuster by  
27 the firm is licensed as an individual in the firm and the **compliance officer**  
28 [PRINCIPAL OR MANAGER] of the firm is licensed as an individual in the firm to  
29 exercise all the powers conferred by the firm's license.

30 \* **Sec. 27.** AS 21.27.140(c) is amended to read:

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

1 or should have known of an act or representation made on the firm's behalf by a  
 2 person not licensed as required by this chapter, the firm and the firm's **compliance**  
 3 **officer** [PRINCIPAL OR MANAGER] are subject to the penalties provided under  
 4 AS 21.27.440.

5 \* **Sec. 28.** AS 21.27.150(a) is amended to read:

6 (a) The director may issue a

7 (1) travel insurance limited producer license to a person [WHOSE  
 8 PLACE OF BUSINESS IS LOCATED IN THIS STATE,] who sells transportation  
 9 tickets of a common carrier of persons or property, who is appointed under  
 10 AS 21.27.100, and whose sole purpose is to be appointed by and act as an agent for  
 11 transportation ticket policies of health insurance, baggage insurance on personal  
 12 effects, and trip cancellation or trip interruption insurance;

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

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

20 **(3)** [(4)] bail bond limited producer license to a person [WHOSE  
 21 PLACE OF BUSINESS IS LOCATED IN THIS STATE AND] whose sole purpose is  
 22 to be appointed by and act on behalf of a surety insurer pertaining to bail bonds;

23 **(4)** [(5)] fraternal benefit society limited producer license to a person  
 24 whose sole purpose is to be appointed by and act on behalf of a fraternal benefit  
 25 society licensed under AS 21.84;

26 **(5)** [(6) RETIRED INSURANCE PRODUCER LICENSE TO A  
 27 RESIDENT WHO IS RETIRED OR RETIRING FROM THE BUSINESS OF  
 28 INSURANCE AND SURRENDERS ALL IN-FORCE LICENSES TO ALLOW THE  
 29 PERSON TO RECEIVE A CONTINUING COMMISSION IN REGARD TO  
 30 INSURANCE TRANSACTED BEFORE RETIREMENT; A RETIRED  
 31 INSURANCE PRODUCER LICENSEE MAY NOT SOLICIT, INDUCE,

1 NEGOTIATE, OR EFFECTUATE CONTRACTS OF INSURANCE; THE  
 2 DIRECTOR MAY RENEW A RETIRED INSURANCE PRODUCER LICENSE IF  
 3 THE LICENSEE CEASES TO BE A RESIDENT OF THIS STATE;

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

8 (A) rents to others, without operators,

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

11 (ii) cargo motor vehicles, including cargo vans, pickup  
 12 trucks, and trucks with a gross vehicle weight of less than 26,000  
 13 pounds that do not require the operator to possess a commercial driver's  
 14 license;

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

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

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

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

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

31 (iv) personal effects insurance, including loss of use,

1 with respect to damage to or loss of personal property of a person  
 2 renting the vehicle and other vehicle occupants while that property is  
 3 being loaded into, transported by, or unloaded from a vehicle rented  
 4 from the licensee during the term of the rental agreement;

5 (v) towing and roadside assistance with respect to  
 6 vehicles rented from the licensee during the term of the rental  
 7 agreement; and

8 (vi) other insurance as may be authorized by regulation  
 9 by the director;

10 (D) notifies the director in writing, within 30 days of  
 11 employment, of the name, date of birth, social security number, location of  
 12 employment, and home address of an employee authorized by the licensee to  
 13 transact insurance on the licensee's behalf; and

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

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

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

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

23 \* **Sec. 29.** AS 21.27.270 is repealed and reenacted to read:

24 **Sec. 21.27.270. Licensing of nonresidents.** (a) In accordance with P.L. 106-  
 25 102 (Gramm-Leach-Bliley Act), the director shall issue a license to a nonresident  
 26 license applicant on terms that are reciprocal with those of the applicant's home state.  
 27 Notwithstanding any contrary provision of this chapter, the director may by order  
 28 waive any license application requirement in this chapter to achieve reciprocity to  
 29 license a nonresident in accordance with P.L. 106-102 (Gramm-Leach-Bliley Act).

30 (b) Unless the director denies or refuses to renew a license under  
 31 AS 21.27.410, the director shall issue a nonresident producer, limited lines, surplus

1 lines broker, managing general agent, reinsurance intermediary broker, or reinsurance  
2 intermediary manager license to a person who is not a resident of this state if

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

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

9 (A) the license application the person submitted to the person's  
10 home state; or

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

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

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

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

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

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

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

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

31 (1) an applicant shall appoint the director as attorney to receive service

1 of legal process issued against the licensee in this state upon a cause of action arising  
 2 in this state or relative to a subject resident, located, or to be performed in this state;  
 3 service upon the director as attorney shall constitute effective legal service upon the  
 4 licensee; and

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

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

12 (g) Upon receiving a service of process, the director shall immediately send  
 13 one of the copies of the process by certified mail, return receipt requested, to the  
 14 licensed or formerly licensed nonresident licensee at the last address of record filed  
 15 with the director.

16 \* **Sec. 30.** AS 21.27 is amended by adding a new section to read:

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

21 \* **Sec. 31.** AS 21.27.330 is repealed and reenacted to read:

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

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

31 \* **Sec. 32.** AS 21.27.350(c) is amended to read:

1 (c) The records of a particular transaction shall be retained and kept open for  
 2 examination and inspection by the director at any business time during the five years  
 3 immediately after the date of the completion of the transaction or 10 years for  
 4 reinsurance transactions, unless the director orders a longer period of retention. If a  
 5 licensee assumes the business of another licensee or former licensee by merger,  
 6 purchase, or otherwise, the **compliance officer** [PRINCIPAL OR MANAGER] of the  
 7 assuming licensee firm shall provide to the director in writing each location where the  
 8 assumed licensee's records are maintained by the assuming licensee during the period  
 9 in which the records must be kept available and open to the inspection of the director.  
 10 A formerly licensed person shall provide to the director in writing each location where  
 11 records shall be maintained during the period in which the records of a particular  
 12 transaction must be kept available and open to the examination and inspection of the  
 13 director. A formerly licensed person may, with the permission of the director, arrange  
 14 to have a current licensee or the home office of the last known insurer of each  
 15 policyholder [,] maintain the records open to the examination and inspection of the  
 16 director during the period in which the records must be maintained.

17 \* **Sec. 33.** AS 21.27.360(b) is amended to read:

18 (b) All money, except that made payable to the insurer, representing premium  
 19 taxes and fees, premiums, or return premiums received by the licensee [,] shall be  
 20 received **by the licensee as a** [IN THE] fiduciary [ACCOUNT OF THE LICENSEE]  
 21 and shall be promptly accounted for and paid to the person entitled to the money.  
 22 [THE FIDUCIARY ACCOUNT SHALL BE LOCATED IN THIS STATE UNLESS  
 23 THE LICENSEE IS LICENSED AS A NONRESIDENT UNDER AS 21.27.270.  
 24 FOR PURPOSES OF THIS SECTION, THE FIDUCIARY ACCOUNT OF THE  
 25 FIRM SHALL BE CONSIDERED THE FIDUCIARY ACCOUNT OF AN  
 26 INDIVIDUAL LICENSEE ACTING ON BEHALF OF THE FIRM AND SHALL BE  
 27 THE RESPONSIBILITY OF THE FIRM]. Money **held by the licensee as a**  
 28 **fiduciary** [DEPOSITED INTO A FIDUCIARY ACCOUNT] may not be commingled  
 29 or otherwise combined with other money **not held by the licensee as a fiduciary** [,]  
 30 EXCEPT AS ALLOWED UNDER (d) OF THIS SECTION AND AS 21.27.365].

31 \* **Sec. 34.** AS 21.27.360(c) is amended to read:

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

6 \* **Sec. 35.** AS 21.27.360(d) is amended to read:

7 (d) A licensee may only commingle premium taxes and fees, premiums, and  
 8 return premiums with additional money for the purpose of advancing premiums,  
 9 establishing reserves for the payment of return premiums, or reserves for receiving and  
 10 transmitting premium or return premium money [. MONEY COLLECTED FOR THE  
 11 PAYMENT OF PREMIUM TAXES, POLICY OR FILING FEES, LATE PAYMENT  
 12 CHARGES, AND INTEREST FROM FIDUCIARY MONEY ON DEPOSIT, MAY  
 13 BE COMMINGLED IN A FIDUCIARY ACCOUNT, BUT SHALL BE  
 14 SEPARATELY ACCOUNTED FOR AND PERIODICALLY REMOVED FROM  
 15 THE FIDUCIARY ACCOUNT].

16 \* **Sec. 36.** AS 21.27.360(e) is amended to read:

17 (e) **Money held by a licensee as a fiduciary may not be treated** [A  
 18 LICENSEE MAY NOT TREAT MONEY REQUIRED TO BE IN A FIDUCIARY  
 19 ACCOUNT] as a personal asset, as collateral for a personal or business loan, or as a  
 20 personal asset or income on a financial statement, except that money **held by the**  
 21 **licensee as a** [IN A] fiduciary [ACCOUNT] may be included in a financial statement  
 22 of the licensee if clearly identified as **assets held by the licensee as a** fiduciary  
 23 [ACCOUNT ASSETS AND LIABILITIES].

24 \* **Sec. 37.** AS 21.27.360(f) is amended to read:

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

28 \* **Sec. 38.** AS 21.27 is amended by adding a new subsection to read:

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

31 \* **Sec. 39.** AS 21.27.370 is repealed and reenacted to read:

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

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

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

13                   (1) for each referral is

14                           (A) nominal;

15                           (B) on a one-time basis; and

16                           (C) fixed in amount by referral;

17                   (2) does not depend on whether the customer or potential customer  
 18 purchases the insurance; and

19                   (3) is not contingent on the volume of insurance transacted.

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

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

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

28                   (2) held that required license.

29           (f) In addition to any other penalty provided by law, the director may suspend  
 30 or revoke the license of a licensee participating in a violation of this section. The  
 31 director may order a licensee who violates this section to pay a penalty of not more

1 than three times the compensation promised or paid.

2 \* **Sec. 40.** AS 21.27.390(a) is amended to read:

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

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

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

11 (3) a surviving member, officer, or employee of a firm licensed as  
12 insurance producer or managing general agent upon the death of the **compliance**  
13 **officer** [PRINCIPAL OR MANAGER] of the firm holding the same licenses as the  
14 firm; or

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

18 \* **Sec. 41.** AS 21.27.410(b) is amended to read:

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

22 \* **Sec. 42.** AS 21.27.460(c) is amended to read:

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

28 \* **Sec. 43.** AS 21.27.540(g) is amended to read:

29 (g) In addition to any other penalty provided by law, if the director determines  
30 under AS 21.06.170 - 21.06.240 that the employing licensed insurance producer knew  
31 of or should have known that a trainee insurance producer violated this section, the

1 employing licensed insurance producer and firm, **and the compliance officer**  
 2 [PRINCIPAL AND MANAGER], if any, are subject to the penalties provided under  
 3 AS 21.27.440.

4 \* **Sec. 44.** AS 21.27.550(c) is amended to read:

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

9 \* **Sec. 45.** AS 21.27.550(i) is amended to read:

10 (i) A reinsurance intermediary manager may not enter into an agency  
 11 agreement with an insurance producer unless both parties are licensed under this  
 12 chapter and there is in effect a written agency agreement that specifically sets out the  
 13 duties, functions, powers, authority, and compensation of all parties to the agreement.  
 14 The written agreement shall be kept in the permanent records of the reinsurance  
 15 intermediary manager, the reinsurer, and the insurance producer, and be open to  
 16 inspection by the director. A written agreement must contain the following minimum  
 17 provisions:

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

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

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

26 (4) the insurance producer may not

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

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

30 \* **Sec. 46.** AS 21.27.560(a) is amended to read:

31 (a) A client who appoints an insurance producer as its broker in this state or

1 relative to a subject resident, located, or to be performed in this state shall execute a  
 2 written contract that specifically sets out the duties, functions, powers, authority, and  
 3 compensation of the insurance producer, if the broker is compensated by a fee paid **by**  
 4 the client or by a combination of a fee paid by a client and a commission paid by an  
 5 insurer with which coverage has been placed. The written contract shall be kept in the  
 6 permanent records of the insurance producer and be open to inspection by the director.

7 \* **Sec. 47.** AS 21.27.560(g) is amended to read:

8 (g) Money paid by a client to an insurance producer for insurance premiums  
 9 shall be held by the insurance producer **as** [IN] a fiduciary [ACCOUNT AS  
 10 DESCRIBED UNDER AS 21.27.360, AND THE INSURANCE PRODUCER  
 11 SHALL COMPLY WITH APPLICABLE FIDUCIARY ACCOUNT STATUTES  
 12 AND REGULATIONS].

13 \* **Sec. 48.** AS 21.27.570(a) is amended to read:

14 (a) If the aggregate amount of gross written premium on business placed by a  
 15 controlling insurance producer exceeds five percent of the admitted assets of the  
 16 controlled insurer for a calendar year as reported in the insurer's most recent financial  
 17 statement filed with the director, the controlling insurance producer may not place  
 18 business with the controlled insurer and the controlled insurer may not accept business  
 19 from the controlling insurance producer unless a written contract is in effect between  
 20 the parties that

21 (1) establishes the responsibilities of each party, indicates each party's  
 22 share of responsibility for each particular function, and specifies the division of  
 23 responsibilities;

24 (2) has been approved by the board of directors of the controlled  
 25 insurer;

26 (3) contains the following minimum provisions:

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

31 (B) the controlling insurance producer shall render accounts to

1 the controlled insurer detailing all transactions, including information in the  
 2 accounts necessary to support compensation, commissions, charges, and other  
 3 fees received by, or owing to, the controlling producer;

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

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

9 (E) money collected for the account of a controlled insurer  
 10 shall be held by the controlling insurance producer **as** [IN] a fiduciary  
 11 [ACCOUNT AS DESCRIBED UNDER AS 21.27.360], except a controlling  
 12 insurance producer not required to be licensed under this chapter shall **act as a**  
 13 [MAINTAIN ITS] fiduciary [ACCOUNT] in compliance with the  
 14 requirements of its domiciliary jurisdiction;

15 (F) [A LICENSED CONTROLLING INSURANCE  
 16 PRODUCER SHALL COMPLY WITH ALL APPLICABLE FIDUCIARY  
 17 ACCOUNT STATUTES AND REGULATIONS;

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

21 (G) [(H)] the controlling insurance producer shall maintain  
 22 separate records for each controlled insurer in a form usable by the controlled  
 23 insurer; the controlled insurer or its authorized representative shall have the  
 24 right to audit and the right to copy all accounts and records related to the  
 25 controlled insurer's business; the director, in addition to authority granted in  
 26 this title, shall have access to all books, bank accounts, and records of the  
 27 controlling insurance producer in a form usable to the director;

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

30 (I) [(J)] the controlled insurer shall provide, and the controlling  
 31 producer shall follow, written underwriting standards, rules, procedures, and

1 manuals that must include the conditions for acceptance or rejection of risks,  
 2 including types of risks that may be written, maximum limits of liability,  
 3 applicable exclusions, territorial limitations, policy cancellation provisions, the  
 4 maximum policy term, the rating system, and basis of the rates to be charged;

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

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

12 (L) [(M)] the controlled insurer shall establish a limit, that may  
 13 be different for each kind or class of business, on the amount of premium that  
 14 the controlling insurance producer may place with the controlled insurer in  
 15 relation to the controlled insurer's surplus and total writings;

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

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

24 (i) at least five years after the premiums are earned on  
 25 casualty business and at least one year after the premiums are earned on  
 26 any other insurance;

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

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

31 (O) [(P)] the controlling insurance producer [may negotiate but

1           may not bind reinsurance on behalf of the controlled insurer on insurance that  
 2           the controlling insurance producer places with the controlled insurer, except  
 3           that the controlling insurance producer may bind facultative reinsurance  
 4           contracts under obligatory agreements if the contract with the controlled  
 5           insurer contains reinsurance underwriting guidelines including, for both  
 6           reinsurance assumed and ceded, a list of reinsurers with which automatic  
 7           agreements are in effect, the coverage and amounts or percentages that may be  
 8           reinsured, and commission schedules; and

9                       (4) provides that the controlled insurer has an audit committee  
 10           composed of independent members of the board of directors that meet at least annually  
 11           with management, the insurer's independent certified public accountants, and an  
 12           independent actuary specialist acceptable to the director to review the adequacy of the  
 13           insurer's reserves for losses incurred and outstanding.

14   \* **Sec. 49.** AS 21.27.600(g) is amended to read:

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

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

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

25   \* **Sec. 50.** AS 21.27.620(a) is amended to read:

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

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

28                               (2) the managing general agent is licensed under this chapter or, when  
 29           the managing general agent is operating only for a foreign insurer, is licensed by its  
 30           resident insurance regulator in a state that the director has determined has enacted  
 31           provisions substantially similar to those contained in this chapter and the state is

1 accredited by the National Association of Insurance Commissioners;

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

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

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

11 (B) the managing general agent shall render accounts to the  
12 insurer detailing all transactions and remit all money due under the contract to  
13 the insurer at least monthly;

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

17 (D) [THE MANAGING GENERAL AGENT SHALL  
18 COMPLY WITH ALL APPLICABLE FIDUCIARY ACCOUNT STATUTES  
19 AND REGULATIONS;

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

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

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

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

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

5                                    (i) the managing general agent's maximum annual  
6 premium volume;

7                                    (ii) the rating system and basis of the rates to be  
8 charged;

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

10                                   (iv) maximum limits of liability;

11                                   (v) applicable exclusions;

12                                   (vi) territorial limitations;

13                                   (vii) policy cancellation provisions;

14                                   (viii) the maximum policy term; and

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

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

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

24                                   (ii) claims shall be reported to the insurer within 30  
25 days;

26                                   (iii) a copy of the claim file shall be sent to the insurer  
27 upon request or as soon as it becomes known that the claim has the  
28 potential to exceed an amount determined by the director or exceeds the  
29 limit set by the insurer, whichever is less, involves a coverage dispute,  
30 may exceed the managing general agent's claims settlement authority,  
31 is open for more than six months, involves extra contractual

1                   allegations, or is closed by payment in excess of an amount set by the  
2                   director or an amount set by the insurer, whichever is less;

3                   (iv) each party shall comply with unfair claims  
4                   settlement statutes and regulations;

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

7                   (vi) claim files shall be the property of both the insurer  
8                   and managing general agent; upon an order of liquidation of the  
9                   insurer, the files shall become the sole property of the insurer or the  
10                  insurer's estate; the managing general agent shall have reasonable  
11                  access to and the right to copy the files on a timely basis;

12                  **(J)** ~~[(K)]~~ if the contract provides for sharing of interim profits  
13                  by the managing general agent and the managing general agent has the  
14                  authority to determine the amount of the interim profits by establishing loss  
15                  reserves, by controlling claim payments, or in any other manner, interim  
16                  profits may not be paid to the managing general agent until

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

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

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

23                  **(K)** ~~[(L)]~~ if the insurer is domiciled in this state or the  
24                  managing general agent has a place of business in this state, a copy of the  
25                  contract must be filed with and approved by the director at least 30 days before  
26                  the managing general agent transacts business on behalf of the insurer; if the  
27                  insurer is not domiciled in this state or the managing general agent transacts  
28                  business relative to a subject resident, located, or to be performed in this state  
29                  from a place of business not physically located in this state, a copy of the  
30                  contract required in this section must be filed with and approved by the  
31                  director at least 30 days before the managing general agent transacts business

1 on behalf of the insurer in this state or relative to a subject resident, located, or  
 2 to be performed in this state if the insurer or the managing general agent are  
 3 domiciled in a state not accredited by the National Association of Insurance  
 4 Commissioners; and

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

12 \* **Sec. 51.** AS 21.27.620 is amended by adding a new subsection to read:

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

14 \* **Sec. 52.** AS 21.27.640(b) is repealed and reenacted to read:

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

17 (1) be a trustworthy person;

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

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

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

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

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

29 (7) provide in or with its application

30 (A) all basic organizational documents of the third-party  
 31 administrator, including articles of incorporation, articles of association,

1 partnership agreement, trade name certificate, trust agreement, shareholder  
2 agreement, and other applicable documents and all endorsements to the  
3 required documents;

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

6 (C) the names, mailing addresses, physical addresses, official  
7 positions, and professional qualifications of persons who are responsible for  
8 the conduct of affairs of the third-party administrator, including the members  
9 of the board of directors, board of trustees, executive committee, or other  
10 governing board or committee; the principal officers in the case of a  
11 corporation, or the partners or members in the case of a partnership, limited  
12 liability company, limited liability partnership, or association; shareholders  
13 holding directly or indirectly 10 percent or more of the voting securities of the  
14 third-party administrator; and any other person who exercises control or  
15 influence over the affairs of the third-party administrator;

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

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

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

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

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

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

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

7 \* **Sec. 53.** AS 21.27.650(a) is amended to read:

8 (a) An insurer may not transact business with a third-party administrator  
9 unless

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

11 (2) the third-party administrator is registered under this chapter or,  
12 when the third-party administrator is operating only for a foreign insurer, is registered  
13 as a third-party administrator by the third-party administrator's resident insurance  
14 regulator in a state that the director has determined has enacted provisions  
15 substantially similar to those contained in AS 21.27.630 - 21.27.650 and that is  
16 accredited by the National Association of Insurance Commissioners;

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

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

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

23 (C) other information the director may require;

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

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

29 (A) the insurer may terminate the contract for cause upon  
30 written notice sent by certified mail to the third-party administrator and may  
31 suspend the underwriting authority of the third-party administrator during a

1 dispute regarding the cause for termination; but the insurer must fulfill all  
 2 lawful obligations with respect to policies affected by the written agreement,  
 3 regardless of any dispute between the insurer and the third-party administrator;

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

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

10 [(D) THE THIRD-PARTY ADMINISTRATOR SHALL  
 11 COMPLY WITH ALL APPLICABLE FIDUCIARY ACCOUNT STATUTES  
 12 AND REGULATIONS;

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

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

19 (F) [(G)] the third-party administrator shall maintain separate  
 20 records for each insurer in a form usable by the insurer; the insurer or its  
 21 authorized representative shall have the right to audit and the right to copy all  
 22 accounts and records related to the insurer's business; the director, in addition  
 23 to other authority granted in this title, shall have access to all books, bank  
 24 accounts, and records of the third-party administrator in a form usable to the  
 25 director; any trade secrets contained in books and records reviewed by the  
 26 director, including the identity and addresses of policyholders and certificate  
 27 holders, shall be kept confidential, except that the director may use the  
 28 information in a proceeding instituted against the third-party administrator or  
 29 the insurer;

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

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

3                    (i) the third-party administrator's maximum annual  
4 premium volume;

5                    (ii) the rating system and basis of the rates to be  
6 charged;

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

8                    (iv) maximum limits of liability;

9                    (v) applicable exclusions;

10                   (vi) territorial limitations;

11                   (vii) policy cancellation provisions;

12                   (viii) the maximum policy term; and

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

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

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

23                   (ii) claims shall be reported to the insurer within 30  
24 days;

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

1 director or an amount set by the insurer, whichever is less;

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

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

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

10 **(J)** [(K)] the contract may not provide for commissions, fees, or  
11 charges contingent upon savings obtained in the adjustment, settlement, and  
12 payment of losses covered by the insurer's obligations; but a third-party  
13 administrator may receive performance-based compensation for providing  
14 hospital or other auditing services or may receive compensation based on  
15 premiums or charges collected or the number of claims paid or processed.

16 \* **Sec. 54.** AS 21.27.650 is amended by adding a new subsection to read:

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

18 \* **Sec. 55.** AS 21.27.680(g) is amended to read:

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

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

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

29 \* **Sec. 56.** AS 21.27.690(a) is amended to read:

30 (a) Except as provided in (b) of this section, an insurer may not transact  
31 business with a reinsurance intermediary broker unless the insurer holds a certificate

1 of authority in this state, the reinsurance intermediary broker is licensed in this state,  
 2 and there is in effect a written contract between the parties that establishes the  
 3 responsibilities of each party, indicates each party's share of responsibility for each  
 4 particular function, and specifies the division of responsibilities. The written contract  
 5 shall be kept in the permanent records of the insurer and the reinsurance intermediary  
 6 broker, be open to inspection by the director, and must contain the following minimum  
 7 provisions:

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

10 (2) the reinsurance intermediary broker shall render accounts to the  
 11 insurer detailing all transactions including information necessary to support all  
 12 commissions, charges, and other fees received by or owing to the reinsurance  
 13 intermediary broker and remit the money due under the contract to the insurer within  
 14 30 days of receipt;

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

20 (4) the reinsurance intermediary broker shall maintain separate  
 21 accounts and records for each insurer and maintain the records in a form usable by the  
 22 insurer; the insurer or the authorized representative of the insurer shall have access and  
 23 the right to audit and the right to copy all accounts and records related to the insurer's  
 24 business; the director, in addition to the other authority granted in this title, shall have  
 25 access to all books, bank accounts, and records of the insurance intermediary broker in  
 26 a form usable to the director;

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

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

1 and

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

4 \* **Sec. 57.** AS 21.27.690 is amended by adding a new subsection to read:

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

6 \* **Sec. 58.** AS 21.27.760(b) is amended to read:

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

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

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

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

21 (4) [THE REINSURANCE INTERMEDIARY MANAGER SHALL  
22 COMPLY WITH APPLICABLE FIDUCIARY ACCOUNT STATUTES AND  
23 REGULATIONS];

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

26 **(5)** [(6) A FIDUCIARY ACCOUNT MUST BE USED FOR] all  
27 payments on behalf of the reinsurer **shall be held by the reinsurance intermediary**  
28 **manager as a fiduciary;**

29 **(6)** [(7)] the reinsurance intermediary manager may retain not more  
30 than three months estimated claims payments and allocated loss adjustment expenses;

31 **(7)** [(8)] the reinsurance intermediary manager shall maintain separate

1 accounts and records for each reinsurer and maintain the records in a form usable by  
 2 the reinsurer; the reinsurer or its authorized representative shall have access and the  
 3 right to audit and the right to copy all accounts and records related to the reinsurer's  
 4 business; the director, in addition to the other authority granted in this title, shall have  
 5 access to all books, bank accounts, and records of the reinsurance intermediary  
 6 manager in a form usable to the director;

7 (8) [(9)] the contract may not be assigned in whole or in part by the  
 8 reinsurance intermediary manager;

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

12 (10) [(11)] compensation including rates, terms, purposes of  
 13 commissions, charges, and other fees that the reinsurance intermediary manager may  
 14 levy against the reinsurer;

15 (11) [(12)] if the contract permits the reinsurance intermediary  
 16 manager to settle claims on behalf of the reinsurer,

17 (A) written settlement authority must be provided by the  
 18 reinsurer and may be terminated for cause upon the insurer's written notice by  
 19 certified mail to the reinsurance intermediary manager or upon the termination  
 20 of the contract; the reinsurer may suspend the settlement authority during a  
 21 dispute regarding the cause of termination;

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

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

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

27 (ii) involves a coverage dispute;

28 (iii) may exceed the reinsurance intermediary manager's  
 29 claims settlement authority;

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

31 (v) involves extra contractual allegations; or

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

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

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

7 (F) claim files shall be the property of both the reinsurer and  
8 reinsurance intermediary manager, but upon an order of liquidation of the  
9 reinsurer, the files shall become the sole property of the reinsurer or the  
10 reinsurer's estate; the reinsurance intermediary manager shall have reasonable  
11 access to and the right to copy the files on a timely basis;

12 **(12)** [(13)] if the contract provides for sharing of interim profits by the  
13 reinsurance intermediary manager, the interim profits may not be paid until

14 (A) one calendar year after the end of each underwriting period  
15 for property risks and five years after the end of each underwriting period for  
16 casualty risks;

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

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

20 **(13)** [(14)] the reinsurance intermediary manager may not

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

27 (B) commit the reinsurer to participate in reinsurance  
28 syndicates;

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

1 (D) pay or commit the reinsurer to pay a claim, net of  
 2 retrocessions, the amount of which exceeds one percent of the reinsurer's  
 3 policyholder's surplus as of December 31 of the last completed calendar year  
 4 without the prior written approval of the reinsurer for the settlement and the  
 5 approval is received after the reinsurer has been notified in writing that the  
 6 claim settlement will exceed one percent of the reinsurer's policyholder's  
 7 surplus as of December 31 of the last completed calendar year;

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

12 (F) jointly employ an individual who is employed with the  
 13 reinsurer; or

14 (G) delegate reinsurance intermediary manager authority to  
 15 another person;

16 **(14)** [(15)] if the insurer is domiciled in this state or the reinsurance  
 17 intermediary manager has a place of business in this state, a copy of the contract must  
 18 be filed with and approved by the director at least 30 days before the reinsurance  
 19 intermediary manager transacts business on behalf of the reinsurer; if the reinsurer is  
 20 not domiciled in this state or the reinsurance intermediary manager transacts business  
 21 relative to a subject resident, located, or to be performed in this state from a place of  
 22 business not physically located in this state, a copy of the contract required in this  
 23 section must be filed with and approved by the director at least 30 days before the  
 24 reinsurance intermediary manager transacts business on behalf of the insurer in this  
 25 state or relative to a subject resident, located, or to be performed in this state if the  
 26 insurer or the reinsurance intermediary manager are domiciled in a state not accredited  
 27 by the National Association of Insurance Commissioners; and

28 **(15)** [(16)] if the contract is not required to be approved in advance by  
 29 the director, the insurer shall provide written notification to the director within 30 days  
 30 of the entry into or termination of a contract with a reinsurance intermediary manager;  
 31 the notice must include a statement of duties to be performed by the reinsurance

1 intermediary manager on behalf of the reinsurer, the kinds and classes of insurance for  
 2 which the reinsurance intermediary manager has authorization to act, and other  
 3 information required by the director.

4 \* **Sec. 59.** AS 21.27.760 is amended by adding a new subsection to read:

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

6 \* **Sec. 60.** AS 21.27.790(2) is amended to read:

7 (2) **if required by the director by regulation maintain a bond as**  
 8 **described in AS 21.27.190 in an amount acceptable to the director** [HAVE AND  
 9 MAINTAIN WHILE LICENSED, A BOND IN THE SUM OF NOT LESS THAN  
 10 \$200,000 AGGREGATE LIABILITY AND] with the conditions that the surplus lines  
 11 broker conduct business under the provisions of this title, promptly remit the taxes and  
 12 fees provided by law, return premiums promptly when due, and pay proper losses  
 13 promptly;

14 \* **Sec. 61.** AS 21.27.800(g) is amended to read:

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

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

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

25 \* **Sec. 62.** AS 21.27.840(f) is amended to read:

26 (f) A trainee independent adjuster shall at all times be working at the direction  
 27 and under the supervision of the employing licensed independent adjuster, and the file  
 28 and record documentation shall reflect the direction and supervision. The employing  
 29 licensed independent adjuster and its firm, **and the compliance officer** [MANAGER,  
 30 AND PRINCIPAL], if any, are responsible for all insurance actions of the trainee  
 31 independent adjuster.

1 \* **Sec. 63.** AS 21.27.840(i) is amended to read:

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

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

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

12 \* **Sec. 64.** AS 21.27.900(10) is amended to read:

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

18 \* **Sec. 65.** AS 21.27.900 is amended by adding new paragraphs to read:

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

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

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

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

31 (27) "limited lines credit insurance" includes credit life, credit

1 disability, credit property, credit unemployment, involuntary unemployment, mortgage  
 2 life, mortgage guaranty, mortgage disability, guaranteed automobile protection  
 3 insurance, and any other form of insurance offered in connection with an extension of  
 4 credit that is limited to partially or wholly extinguishing that credit obligation that the  
 5 director of insurance determines must be designated a form of limited lines credit  
 6 insurance;

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

10 (29) "negotiate" means the act of conferring directly with or offering  
 11 advice directly to a purchaser or prospective purchaser of a particular contract of  
 12 insurance concerning any of the substantive benefits, terms, or conditions of the  
 13 contract if the person engaged in that act either sells insurance or obtains insurance  
 14 from insurers for purchasers;

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

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

19 (32) "transact" or "transact business" means sell, solicit, or negotiate  
 20 insurance or insurance products;

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

23 (34) "uniform business entity application" means the most recent  
 24 version of the uniform business entity application of the National Association of  
 25 Insurance Commissioners.

26 \* **Sec. 66.** AS 21.36 is amended by adding new sections to read:

27 **Sec. 21.36.162. Nondisclosure of personal financial and personal health**  
 28 **information.** The director shall adopt regulations regarding the release of financial  
 29 and health information regarding an individual who seeks to obtain, obtains, or has  
 30 obtained an insurance product or service from a licensee that is to be used primarily  
 31 for personal, family, or household purposes. The regulations must be at least as

1 restrictive as the model regulations adopted under the National Conference of  
 2 Insurance Legislators Financial Information Privacy Protection Model Act, adopted by  
 3 the National Conference of Insurance Legislators Executive Committee on  
 4 November 17, 2000, and amended on March 2, 2001.

5 **Sec. 21.36.164. Licensing of persons in a financial institution.** A financial  
 6 institution may not allow a person to transact insurance in an office of the institution  
 7 or on behalf of the institution, unless the person is licensed as required under  
 8 AS 21.27.

9 \* **Sec. 67.** AS 21.36.165 is amended to read:

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

12 (1) require, as a condition to the lending of money or extension of  
 13 credit, or a renewal of the loan or extension of credit, that the obligee of the money or  
 14 credit negotiate a policy or contract of insurance through any particular person or  
 15 group of persons;

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

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

29 (4) USE OR DISCLOSE INFORMATION RESULTING FROM A  
 30 REQUIREMENT THAT A BORROWER, MORTGAGOR, OR PURCHASER  
 31 FURNISH INSURANCE OF ANY KIND ON REAL PROPERTY BEING

1 CONVEYED OR USED AS COLLATERAL SECURITY TO A LOAN, WHEN THE  
 2 INFORMATION IS TO THE ADVANTAGE OF THE MORTGAGEE, VENDOR,  
 3 OR LENDER, OR IS TO THE DETRIMENT OF THE BORROWER,  
 4 MORTGAGOR, PURCHASER, INSURER, AGENT, OR BROKER COMPLYING  
 5 WITH THE REQUIREMENT].

6 \* **Sec. 68.** AS 21.36.165 is amended by adding new subsections to read:

7 (b) A person shall

8 (1) use separate documents for an insurance transaction, other than  
 9 credit insurance or flood insurance, and for a credit transaction; and

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

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

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

19 \* **Sec. 69.** AS 21.36 is amended by adding new sections to read:

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

24 (1) the insurance is backed by or a return on the insurance is  
 25 guaranteed by the state, the federal government, the person, or the Federal Deposit  
 26 Insurance Corporation;

27 (2) the state or federal government

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

30 (B) is responsible for the insurance sales activities of the  
 31 person; or

1 (C) guarantees the credit of the person;

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

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

8 **Sec. 21.36.168. Disclosures required in financial institution sales.** (a) In  
9 the sale of insurance by a financial institution, a person shall disclose both orally and  
10 in writing to a consumer before the initial purchase of insurance that

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

12 (2) the insurance is not guaranteed by the person or the person  
13 soliciting insurance;

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

17 (4) if the insurance contains risk, the insurance contains investment  
18 risk and the insurance may lose value;

19 (5) the consumer is not required to negotiate a policy or contract of  
20 insurance through any particular person or group of persons as a condition to the  
21 lending of money or extension of credit, or a renewal of the loan or extension of  
22 credit, except that the person may impose reasonable requirements uniformly applied  
23 and relating to the extent of coverage required and the financial soundness and the  
24 services of the insurer and that the standards may not discriminate against a particular  
25 type of insurer or require disapproval of a policy containing coverage in addition to  
26 that required.

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

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

1 days.

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

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

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

8 (e) A person shall provide the disclosures required in (a) of this section in a  
9 meaningful form and in a conspicuous, simple, direct, and understandable manner that  
10 is designed to call attention to the information provided.

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

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

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

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

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

24 **Sec. 21.36.169. Definitions for AS 21.36.164 - 21.36.169.** In AS 21.36.164 -  
25 21.36.169, unless the context otherwise requires,

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

28 (2) "financial institution" means a bank holding company under  
29 12 U.S.C. 1841 (Bank Holding Company Act of 1956); a credit union under 12 U.S.C.  
30 1752 (Federal Credit Union Act), a bank, savings bank, savings and loan association,  
31 or trust company, or any depository institution under 12 U.S.C. 1813(c)(1); and any

1 other person authorized to take federally insured deposits and make loans in the state;  
 2 "financial institution" includes any employee or agent of a financial institution and any  
 3 nondepository affiliate or subsidiary of a financial institution but only in the instances  
 4 when the nondepository affiliate or subsidiary is soliciting the sale or purchase of  
 5 insurance recommended or sponsored by, on the premises of, or in connection with a  
 6 product offering of the financial institution; "financial institution" does not include an  
 7 insurer.

8 \* **Sec. 70.** AS 21.36 is amended by adding a new section to read:

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

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

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

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

20 \* **Sec. 71.** AS 21.36.360 is amended by adding a new subsection to read:

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

23 \* **Sec. 72.** AS 21.36.430(a) is amended to read:

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

30 \* **Sec. 73.** AS 21.36.430 is amended by adding a new subsection to read:

31 (c) In this section, "domestic violence" means the occurrence of one or more

1 of the following by a current or former family member, household member, intimate  
2 partner, or caretaker:

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

6 (2) engaging in a course of conduct or repeatedly committing acts  
7 toward another person, including following the person without proper authority, under  
8 circumstances that place the person in reasonable fear of bodily injury or physical  
9 harm;

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

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

13 \* **Sec. 74.** AS 21.87.220(b) is amended to read:

14 (b) **AS 21.21 shall** [THE FOLLOWING SECTIONS] apply to the investments  
15 of service corporations, to the extent applicable, and for the purposes of the  
16 application a service corporation shall be considered to be an insurer [: AS 21.21.020 -  
17 21.21.050, 21.21.290, AND 21.21.300].

18 \* **Sec. 75.** AS 21.89.080 is repealed and reenacted to read:

19 **Sec. 21.89.080. Electronic submissions.** The director may, by regulation or  
20 by order, provide for the electronic submission of any information or written  
21 submission required by this title and for an electronic confirmation of a required  
22 submission.

23 \* **Sec. 76.** AS 21.90.900(24) is repealed and reenacted to read:

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

25 \* **Sec. 77.** AS 21.27.150(b), 21.27.170, 21.27.405(c), 21.27.530(5), 21.27.900(14), and  
26 21.27.900(16) are repealed.

27 \* **Sec. 78.** AS 21.27.190(d), 21.27.365, and 21.27.900(7) are repealed.

28 \* **Sec. 79.** AS 21.18.120, 21.18.130, 21.18.140, 21.18.150; AS 21.21.030, 21.21.040,  
29 21.21.050, 21.21.060, 21.21.070, 21.21.080, 21.21.090, 21.21.100, 21.21.110, 21.21.120,  
30 21.21.130, 21.21.140, 21.21.150, 21.21.160, 21.21.170, 21.21.180, 21.21.190, 21.21.200,  
31 21.21.210, 21.21.220, 21.21.225, 21.21.230, 21.21.240, 21.21.245, 21.21.250, 21.21.260,

1 21.21.270, 21.21.280, 21.21.290, 21.21.300, 21.21.310, 21.21.321, 21.21.330, 21.21.350,  
 2 21.21.355, 21.21.360, 21.21.370, 21.21.380, 21.21.390, 21.21.400, 21.21.600;  
 3 AS 21.87.340(7), and 21.87.340(8) are repealed.

4 \* **Sec. 80.** AS 21.36.162 is repealed.

5 \* **Sec. 81.** The uncodified law of the State of Alaska is amended by adding a new section to  
 6 read:

7 **INDIRECT COURT RULE AMENDMENT.** (a) The provisions of AS 21.27.110(h),  
 8 as repealed and reenacted by sec. 22 of this Act, have the effect of amending Rule 402,  
 9 Alaska Rules of Evidence, by making inadmissible in court, except under certain  
 10 circumstances, the statement of reasons for termination of an appointment under  
 11 AS 21.27.110.

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

16 \* **Sec. 82.** The uncodified law of the State of Alaska is amended by adding a new section to  
 17 read:

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

22 \* **Sec. 83.** The uncodified law of the State of Alaska is amended by adding a new section to  
 23 read:

24 **CERTIFICATION OF EFFECTIVE DATE OF REGULATIONS.** The lieutenant  
 25 governor shall certify to the revisor of statutes the effective date of the regulations initially  
 26 adopted by the director of insurance under AS 21.21.420, enacted by sec. 7 of this Act, to  
 27 implement the provisions of secs. 2 - 8, and 74 of this Act regarding investments by insurers.

28 \* **Sec. 84.** Sections 1, 16, 17, 75, and 82 of this Act take effect immediately under  
 29 AS 01.10.070(c).

30 \* **Sec. 85.** Sections 33 - 39, 44, 45, 47, 48, 50, 53, 56, 58, 70, and 78 of this Act take effect  
 31 July 1, 2002.

- 1     \* **Sec. 86.** Sections 66 - 69, and 71 - 73 of this Act take effect July 1, 2001.
- 2     \* **Sec. 87.** Sections 2 - 8, 74, and 79 of this Act take effect 30 days after the revisor of
- 3 statutes receives notice from the lieutenant governor under sec. 83 of this Act.
- 4     \* **Sec. 88.** Section 80 takes effect April 30, 2004.
- 5     \* **Sec. 89.** Except as provided in secs. 84 - 88 of this Act, this Act takes effect January 1,
- 6 2002.