

**HOUSE BILL NO. 246**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

Introduced: 4/17/01

Referred: Labor and Commerce, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to confidentiality of records and to cease and desist orders of the  
2 division of insurance, to insurance company investments, to unauthorized insurers, to  
3 surplus lines insurance, to health insurance, to life insurance, to annuity insurance, to  
4 consumer credit insurance, to title insurance, and to hospital and medical service  
5 corporations; and providing for an effective date."

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

7 \* **Section 1.** AS 21.06.060 is amended to read:

8 **Sec. 21.06.060. Records.** The director shall enter in permanent form records  
9 of official transactions, examinations, investigations, and proceedings and keep those  
10 records in the office of the director. The records and insurance filings in the office of  
11 the director are open to public inspection, except as otherwise provided in **(b) - (g) of**  
12 **this section or other provisions of** this title with respect to particular records or  
13 filings.

1 \* **Sec. 2.** AS 21.06.060 is amended by adding new subsections to read:

2 (b) Information and records, including written documents and electronic data,  
3 designated as confidential or not available for public inspection under this section or  
4 other provisions of this title

5 (1) are not subject to inspection and copying under AS 40.25.110 -  
6 40.25.220;

7 (2) may not be obtained from the director by subpoena, except for a  
8 subpoena issued by a state or federal law enforcement agency or grand jury;

9 (3) may be used by the director in a regulatory or legal proceeding; and

10 (4) may be released for public inspection if the person who provided  
11 the information or records to the director consents or releases incomplete or  
12 misleading information on the same topic to the public.

13 (c) The director or a person acting under the authority of the director who  
14 receives information or records designated in this title as confidential or not available  
15 for public inspection may not be permitted or required to testify about the information  
16 or records in a civil action not involving the state or a state agency, officer, or  
17 employee.

18 (d) A person required or requested to provide information or records to the  
19 director under this title does not waive a claim of privilege that the person may have  
20 by providing the information or records to the director.

21 (e) In the performance of duties under this title, the director may

22 (1) disclose confidential information or records to the legislature, state,  
23 federal, and international regulatory or law enforcement agencies, or the National  
24 Association of Insurance Commissioners if the recipient will maintain the  
25 confidentiality of the information or records;

26 (2) receive information or records from state, federal, and international  
27 regulatory or law enforcement authorities or the National Association of Insurance  
28 Commissioners and maintain the confidentiality of the information or records if  
29 requested to do so or given notice that the information or records are confidential  
30 under the law of the jurisdiction supplying them; and

31 (3) enter into agreements consistent with this section governing the

1 sharing of information or records that are confidential under this title with other state,  
 2 federal, and international regulatory or law enforcement agencies or the National  
 3 Association of Insurance Commissioners for the purpose of furthering any regulatory  
 4 or legal action that may be taken as part of the recipient's official duties.

5 (f) The following information or records submitted to or obtained by the  
 6 director are confidential:

7 (1) personally identifiable consumer information; however, the director  
 8 may disclose the information or records for the purpose of attempting to resolve a  
 9 consumer complaint;

10 (2) information or records established by a showing satisfactory to the  
 11 director to be a trade secret or proprietary business information, including

12 (A) detailed health insurance claim cost data; and

13 (B) justification for usual, customary, and reasonable charge  
 14 determinations; and

15 (3) information or records provided by a person not subject to this title  
 16 at the request of the director if the information or records are identified as confidential  
 17 by the director; and

18 (4) financial analysis ratios and examination synopses concerning  
 19 insurance companies that are submitted to the director by the National Association of  
 20 Insurance Commissioners.

21 (g) The director may withhold information or records from public inspection  
 22 for as long as the director finds the withholding is

23 (1) necessary to protect a person against unwarranted injury; or

24 (2) in the public interest.

25 \* **Sec. 3.** AS 21.06.150(g) is repealed and reenacted to read:

26 (g) Information or records obtained by the director under AS 21.06.120 or  
 27 21.06.140 and any related workpapers of an examination are confidential. The  
 28 director may publish an examination report or a summary of it in a newspaper or  
 29 electronic media in the state if the director determines that the publication is in the  
 30 public interest.

31 \* **Sec. 4.** AS 21.06 is amended by adding a new section to read:

1           **Sec. 21.06.175. Cease and desist orders.** (a) If the director determines that a  
 2 person has violated or is about to violate this title, the director shall serve upon the  
 3 person charged an order requiring that person to cease and desist from engaging in the  
 4 act or practice. A person aggrieved by the cease and desist order may demand a  
 5 hearing under AS 21.06.170 – 21.06.240.

6           (b) If the director believes a person has violated a cease and desist order issued  
 7 under this section, the director may certify the relevant facts to the superior court for  
 8 proceedings under AS 44.62.590. The superior court, upon finding that the cease and  
 9 desist order has been violated, may order the violator to comply with the order and pay  
 10 an additional penalty of not more than \$1,000,000 for each violation, may revoke or  
 11 suspend the violator's license, and may bar the violator from transacting the business  
 12 of insurance in this state.

13 \* **Sec. 5.** AS 21.06.210 is amended by adding a new subsection to read:

14           (h) The director may close a hearing to the public when the director finds the  
 15 closure is necessary to protect a person against unwarranted injury or is in the public  
 16 interest.

17 \* **Sec. 6.** AS 21.12.020(c) is amended to read:

18           (c) A reduction from liability [,] for reinsurance ceded to an assuming insurer  
 19 not meeting the requirements of (a) of this section [,] shall be allowed in an amount  
 20 not exceeding the liabilities carried by the ceding insurer. The reduction shall be equal  
 21 to the amount of money held by or on behalf of the ceding insurer, including money  
 22 held in trust for the ceding insurer, under a reinsurance contract with the assuming  
 23 insurer as security for the payment of obligations under it [,] if the security is held in  
 24 the United States subject to withdrawal solely by [,] and under the exclusive control of  
 25 [,] the ceding insurer [,] or, in the case of a trust, held in a qualified United States  
 26 financial institution. The security must be in the form of

27                   (1) cash;

28                   (2) securities listed by the securities valuation office of the National  
 29 Association of Insurance Commissioners that qualify as admitted assets under  
 30 **AS 21.23** [AS 21.21];

31                   (3) clean, irrevocable, unconditional letters of credit that contain an

1 evergreen clause issued or confirmed by a qualified United States financial institution  
 2 not later than December 31 in the year for which filing is made, and in the possession  
 3 of the ceding insurer on or before the filing date of the ceding insurer's annual  
 4 statement; letters of credit meeting applicable standards of issuer acceptability as of  
 5 the dates of their issuance or confirmation shall, notwithstanding the issuing or  
 6 confirming institution's subsequent failure to meet applicable standards of issuer  
 7 acceptability, continue to be acceptable as security until their expiration, extension,  
 8 renewal, modification, or amendment, whichever occurs first; or

9 (4) other security acceptable to and approved in advance by the  
 10 director.

11 \* **Sec. 7.** AS 21.18.010(4) is amended to read:

12 (4) other assets that do not exceed limitations as given in **AS 21.23**  
 13 [AS 21.21]; any excess shall be reported as nonadmitted assets.

14 \* **Sec. 8.** AS 21.22.085(a) is amended to read:

15 (a) The following transactions involving a domestic insurer and a person in its  
 16 holding company system may not be entered into unless the insurer has notified the  
 17 director in writing of the insurer's intention to enter into the transaction at least 30  
 18 days before the transaction, or a shorter period if allowed by the director, and the  
 19 director has not disapproved the transaction within the required notice period:

20 (1) a sale, purchase, exchange, loan or extension of credit, guarantee,  
 21 or investment, provided the transaction is equal to or exceeds

22 (A) with respect to insurers other than life insurers, the lesser of  
 23 three percent of the insurer's admitted assets or 25 percent of surplus that  
 24 pertains to policyholder surplus, each calculated under **AS 21.23.020(g)**  
 25 [AS 21.21.020(d)]; or

26 (B) with respect to life insurers, three percent of the insurer's  
 27 admitted assets calculated under **AS 21.23.020(g)** [AS 21.21.020(d)];

28 (2) a loan or extension of credit to a person who is not an affiliate,  
 29 where the insurer makes loans or extensions of credit with the agreement or  
 30 understanding that the proceeds of the transaction, in whole or in substantial part, are  
 31 to be used to make a loan or extension of credit to, purchase an asset of, or make an

1 investment in an affiliate of the insurer making the loan or extension of credit  
2 provided the transaction is equal to or exceeds

3 (A) with respect to insurers other than life insurers, the lesser of  
4 three percent of the insurer's admitted assets or 25 percent of surplus that  
5 pertains to policyholder surplus, each calculated under AS 21.23.020(g)  
6 [AS 21.21.020(d)]; or

7 (B) with respect to life insurers, three percent of the insurer's  
8 admitted assets calculated under AS 21.23.020(g) [AS 21.21.020(d)];

9 (3) a reinsurance agreement or modification in which the reinsurance  
10 premium or change in the insurer's liabilities equals or exceeds five percent of the  
11 insurer's surplus that pertains to policyholder surplus, calculated under  
12 AS 21.23.020(g) [AS 21.21.020(d)], including an agreement that may require as  
13 consideration the transfer of assets from an insurer to a nonaffiliate if an agreement or  
14 understanding exists between the insurer and nonaffiliate that a portion of the assets  
15 will be transferred to an affiliate of the insurer;

16 (4) a management agreement, service contract, or cost-sharing  
17 arrangement; and

18 (5) a material transaction specified by regulation that the director  
19 determines may adversely affect the interests of the insurer's policyholders.

20 \* **Sec. 9.** AS 21.22.090(10) is amended to read:

21 (10) the quality and liquidity of investments in affiliates made under  
22 AS 21.23 [AS 21.21]; the director may treat any such investment as a disallowed asset  
23 for purposes of determining the adequacy of policyholder surplus [AS REGARDS  
24 POLICYHOLDERS] whenever the director determines the investment warrants it.

25 \* **Sec. 10.** AS 21 is amended by adding a new chapter to read:

26 **Chapter 23. Investments.**

27 **Sec. 21.23.010. Scope.** This chapter applies only to an investment and  
28 investment practice of a domestic insurer and a United States branch of an alien  
29 insurer entered through this state. Except as provided in AS 21.42.370(c), this chapter  
30 does not apply to separate accounts of a life insurer.

31 **Sec. 21.23.020. General investment qualifications.** (a) An insurer may

1 acquire, hold, or invest an in investment or engage in an investment practice as set out  
 2 in this chapter. An investment that does not conform to this chapter is not an admitted  
 3 asset.

4 (b) Subject to (c) of this section, an insurer may not acquire, hold, or invest in  
 5 an investment as an admitted asset unless, at the time of acquisition, it is

6 (1) eligible for the payment or accrual of interest or discount, whether  
 7 in cash or other securities, is eligible to receive dividends or other distributions, or is  
 8 otherwise income producing; or

9 (2) acquired under AS 21.23.140(f), 21.23.150, 21.23.170, 21.23.200,  
 10 or under the authority of another chapter of this title.

11 (c) An insurer may acquire, hold, or invest in as an admitted asset an  
 12 investment that does not otherwise qualify as provided in this chapter if the insurer has  
 13 not acquired the investment for the purpose of circumventing any limitations  
 14 contained in this chapter, if the insurer complies with the provisions of AS 21.23.040  
 15 and 21.23.060 as to the investment, and if the insurer acquires the investment in the  
 16 following circumstances:

17 (1) as payment on account of existing indebtedness or in connection  
 18 with the refinancing, restructuring, or workout of existing indebtedness if taken to  
 19 protect the insurer's interest in that investment;

20 (2) as realization on collateral for an obligation;

21 (3) in connection with an otherwise qualified investment or investment  
 22 practice, as interest on or a dividend or other distribution related to the investment or  
 23 investment practice or in connection with the refinancing of the investment, in each  
 24 case for no additional or only nominal consideration;

25 (4) under a lawful and bona fide agreement of recapitalization or  
 26 voluntary or involuntary reorganization in connection with an investment held by the  
 27 insurer; or

28 (5) under a bulk reinsurance, merger, or consolidation transaction  
 29 approved by the director if the assets constitute admissible investments for the ceding,  
 30 merged, or consolidated companies.

31 (d) An investment or portion of an investment acquired, held, or invested in by

1 an insurer under (c) of this section becomes a nonadmitted asset three years, or five  
 2 years in the case of a mortgage loan and real estate, after the date of its acquisition,  
 3 unless, within that period, the investment has become a qualified investment under a  
 4 provision of this chapter other than (c) of this section. However, an investment  
 5 acquired under an agreement of bulk reinsurance, merger, or consolidation may be  
 6 qualified for a longer period if a longer period is provided in the plan for reinsurance,  
 7 merger, or consolidation as approved by the director. Upon application by an insurer  
 8 and a showing that the nonadmission of an asset held under (c) of this section would  
 9 materially injure the interest of the insurer, the director may extend the period for  
 10 admissibility for an additional reasonable period of time.

11 (e) Except as provided in (f) and (h) of this section, an investment must  
 12 qualify under this chapter if, on the date the insurer committed to acquire, hold, or  
 13 make the investment or on the date of its acquisition, it would have qualified under  
 14 this chapter. For the purposes of determining limitations contained in this chapter, an  
 15 insurer shall give recognition to any commitments to acquire investments.

16 (f) On the effective date of this chapter,

17 (1) an investment held as an admitted asset by an insurer that qualified  
 18 under former AS 21.21 will remain qualified as an admitted asset under this chapter;  
 19 and

20 (2) each specific transaction constituting an investment practice of the  
 21 type described in this chapter that was lawfully entered into by an insurer and was in  
 22 effect will continue to be permitted under this chapter until its expiration or  
 23 termination under its terms.

24 (g) Unless otherwise specified, an investment limitation computed on the basis  
 25 of an insurer's admitted assets or capital and surplus must relate to the amount required  
 26 to be shown on the insurer's balance sheet most recently required to be filed with the  
 27 director. For purposes of computing any limitation based on admitted assets, the  
 28 insurer shall deduct from the amount of its admitted assets the amount of the liability  
 29 recorded on its balance sheet for

30 (1) the return of acceptable collateral received in a reverse repurchase  
 31 transaction or a securities lending transaction;

1 (2) the cash received in a dollar roll transaction; and

2 (3) the amount reported as borrowed money in the most recently filed  
3 financial statement to the extent not included in (1) and (2) of this subsection.

4 (h) An investment qualified, in whole or in part, for acquiring, holding, or  
5 investing in as an admitted asset may be qualified or requalified at the time of  
6 acquisition or a later date, in whole or in part, under any other section of this chapter if  
7 the relevant conditions contained in the other section are satisfied at the time of  
8 qualification or requalification.

9 (i) An insurer shall maintain documentation demonstrating that investments  
10 were acquired, held, or invested as required by this chapter and specifying the section  
11 of this chapter under which they were acquired, held, or invested.

12 (j) An insurer may not enter into an agreement to purchase securities in  
13 advance of their issuance for resale to the public as part of a distribution of the  
14 securities by an issuer or otherwise guarantee the distribution, except that an insurer  
15 may acquire privately placed securities with registration rights.

16 (k) Notwithstanding the provisions of this chapter, the director, for good  
17 cause, may order an insurer to nonadmit, limit, dispose of, or withdraw from or  
18 discontinue an investment or investment practice. The authority of the director under  
19 this subsection is in addition to any other authority of the director under this title.

20 (l) Insurance futures and insurance futures options are not considered  
21 investments or investment practices for purposes of this chapter.

22 (m) An insurer shall maintain the investment limitations imposed under this  
23 chapter subsequent to acquiring or investing in an investment and make a good faith  
24 effort to maintain holdings at or below these limitations.

25 (n) As provided under 15 U.S.C. 77r-1(b) and (c) (Secondary Mortgage  
26 Market Enhancement Act of 1984), securities that are purchased, held, or invested in  
27 by an insurer shall be regulated under AS 21.23.060, 21.23.090, 21.23.140, and other  
28 applicable provisions of this title.

29 **Sec. 21.23.030. Authorization of investments by the board of directors.**

30 (a) The board of directors of an insurer shall adopt a written plan for acquiring,  
31 holding, and investing in investments and for engaging in investment practices that

1 specifies guidelines as to the quality, maturity, and diversification of investments and  
2 that contains other specifications including investment strategies intended to ensure  
3 that the investments and investment practices are appropriate for the business  
4 conducted by the insurer, its liquidity needs, and its capital and surplus. The board of  
5 directors shall review and assess the insurer's technical investment and administrative  
6 capabilities and expertise before adopting a written plan concerning an investment  
7 strategy or investment practice.

8 (b) An investment acquired, held, and invested in under this chapter must be  
9 acquired and held under the supervision and direction of the board of directors of the  
10 insurer. The board of directors shall evidence by formal resolution, at least annually,  
11 that it has determined whether all investments have been made in accordance with  
12 delegations, standards, limitations, and investment objectives prescribed by the board  
13 of directors or a committee of the board of directors charged with the responsibility to  
14 direct its investments.

15 (c) On at least a quarterly basis and more often if considered appropriate, an  
16 insurer's board of directors or a committee of the board of directors shall

17 (1) receive and review a summary report on the insurer's investment  
18 portfolio, its investment activities, and its investment practices engaged in under  
19 delegated authority to determine whether the portfolio, activities, and practices are  
20 consistent with the written plan; and

21 (2) review and revise, as appropriate, the written plan.

22 (d) In discharging its duties under this section, the board of directors shall  
23 require that records of any authorizations or approvals, other documentation as the  
24 board may require, and reports of any action taken under authority delegated under the  
25 plan referred to in (a) of this section shall be made available on a regular basis to the  
26 board of directors.

27 (e) In discharging a duty under this section, an individual director shall  
28 perform the duty in good faith and with that degree of care that ordinarily prudent  
29 individuals in like positions would use under similar circumstances.

30 (f) If an insurer does not have a board of directors, all references to the board  
31 of directors in this chapter shall be considered to be references to the governing body

1 of the insurer having authority equivalent to that of a board of directors.

2 **Sec. 21.23.040. Prohibited investments.** (a) An insurer may not, directly or  
3 indirectly,

4 (1) acquire, hold, or invest in an obligation or security or make a  
5 guarantee for the benefit of or in favor of an officer or director of the insurer, except as  
6 provided in AS 21.23.050;

7 (2) acquire, hold, or invest in an obligation or security, make a  
8 guarantee for the benefit of or in favor of one or more officers or directors of the  
9 insurer, or make other investments in a business entity of which 10 percent or more of  
10 the voting securities or equity interests are owned directly or indirectly by or for the  
11 benefit of one or more officers or directors of the insurer, except as authorized in  
12 AS 21.22 or provided in AS 21.23.050;

13 (3) engage on its own behalf or through one or more affiliates in a  
14 transaction or series of transactions designed to evade the prohibitions of this chapter;

15 (4) invest in a partnership as a general partner, unless

16 (A) all other partners in the partnership are subsidiaries of the  
17 insurer;

18 (B) the investment is for the purpose of

19 (i) meeting cash calls committed to before the effective  
20 date of this chapter;

21 (ii) completing those specific projects or activities of  
22 the partnership in which the insurer was a general partner as of the  
23 effective date of this chapter that had been undertaken as of that date;  
24 or

25 (iii) making capital improvements to property owned by  
26 the partnership on the effective date of this chapter if the insurer was a  
27 general partner as of that date; or

28 (C) the investment complies with AS 21.23.020(c); or

29 (5) invest in or lend its funds upon the security of shares of its own  
30 stock, except that an insurer may acquire shares of its own stock, but not as admitted  
31 assets of the insurer, for the following purposes:

1 (A) conversion of a stock insurer into a mutual or reciprocal  
2 insurer or a mutual or reciprocal insurer into a stock insurer;

3 (B) issuance to the insurer's officers, employees, or agents in  
4 connection with a plan approved by the director for converting a publicly held  
5 insurer into a privately held insurer or in connection with other stock option  
6 and employee benefit plans;

7 (C) as required by any other plan approved by the director.

8 (b) This section does not prohibit a subsidiary or other affiliate of the insurer  
9 from becoming a general partner.

10 **Sec. 21.23.050. Loans to officers and directors.** (a) Except as provided in  
11 (d) of this section, an insurer may not, without the prior written approval of the  
12 director, directly or indirectly,

13 (1) make a loan to or other investment in an officer or director of the  
14 insurer or a person in which the officer or director has any direct or indirect financial  
15 interest;

16 (2) make a guarantee for the benefit of or in favor of an officer or  
17 director of the insurer or a person in which the officer or director has any direct or  
18 indirect financial interest; or

19 (3) enter into an agreement for the purchase or sale of property from or  
20 to an officer or director of the insurer or a person in which the officer or director has  
21 any direct or indirect financial interest.

22 (b) For purposes of (a) of this section, an officer or director may not be  
23 considered to have a financial interest by reason of an interest that is held directly or  
24 indirectly through the ownership of equity interests representing less than two percent  
25 of all outstanding equity interests issued by a person that is a party to the transaction.

26 (c) The provisions of (a) of this section do not

27 (1) permit an investment that is prohibited by AS 21.23.040; and

28 (2) apply to a transaction between an insurer and a subsidiary or  
29 affiliate that is entered into in compliance with AS 21.22, except for a transaction  
30 between the insurer and its officers or directors.

31 (d) An insurer may make, without the prior written approval of the director,

1 (1) a policy loan in compliance with the terms of the policy or contract  
2 and AS 21.23.180;

3 (2) an advance to an officer or director for an expense reasonably  
4 expected to be incurred in the ordinary course of the insurer's business or guarantees  
5 associated with credit or charge cards issued or credit extended for the purpose of  
6 financing these expenses;

7 (3) a loan secured by the principal residence of an officer of the insurer  
8 made in connection with the officer's relocation at the insurer's request, if the loan  
9 complies with the requirements of AS 21.23.140 and the terms and conditions are  
10 otherwise the same as those generally available from an unaffiliated third party;

11 (4) a secured loan to an officer of the insurer made in connection with  
12 the officer's relocation at the insurer's request, if the loan

13 (A) does not have a term exceeding two years;

14 (B) is required to finance a mortgage loan outstanding at the  
15 same time on the prior and new residence of the officer;

16 (C) does not exceed an amount equal to the equity of the officer  
17 in the prior residence; and

18 (D) is required to be fully repaid upon the earlier of the end of  
19 the two-year period or the sale of the prior residence; and

20 (5) a loan and advance to an officer or director made in compliance  
21 with state or federal law specifically related to the loan and advance by a regulated  
22 noninsurance subsidiary or affiliate of the insurer in the ordinary course of business  
23 and on terms that are not more favorable than available to other customers of the  
24 entity.

25 **Sec. 21.23.060. Valuation of investments.** For the purposes of this chapter,  
26 the value or amount of an investment acquired, held, or invested in or an investment  
27 practice engaged in under this chapter, unless otherwise specified in this title, must be  
28 the value at which assets of an insurer are required to be reported for accounting  
29 purposes under this title and as required under procedures prescribed in published  
30 accounting and valuation standards of the National Association of Insurance  
31 Commissioners, including the purposes and procedures manual of the securities

1 valuation office, the valuation of securities manual, the accounting practices and  
 2 procedures manual, and the annual statement instructions or valuation procedures  
 3 officially adopted by the National Association of Insurance Commissioners.

4 **Sec. 21.23.070. Custodians.** (a) A custodial agreement between an insurer  
 5 and an institution holding an asset, security, or investment of the insurer must provide  
 6 that the custodian is obligated to indemnify the insurer for losses involving an  
 7 insurance company asset or security in the custodian's custody resulting from the  
 8 negligence or dishonesty of the custodian's officers, employees, or agents or caused by  
 9 burglary, robbery, holdup, theft, or mysterious disappearance, including loss by  
 10 damage or destruction. The custodial agreement must also provide that, in the event  
 11 of a loss, an asset or security shall be promptly replaced or the value of the asset or  
 12 security and the value of a loss of a right or privilege resulting from the loss shall be  
 13 promptly replaced.

14 (b) The custodian for an asset, security, or investment of the insurer must be a  
 15 qualified bank or securities firm that is properly authorized by the insurer and  
 16 approved by the director.

17 **Sec. 21.23.080. General diversification threshold.** In this chapter, the  
 18 general diversification threshold equals three percent of admitted assets for a life and  
 19 health insurer or five percent of admitted assets for a property and casualty insurer.

20 **Sec. 21.23.090. General diversification, medium-grade investments and**  
 21 **lower-grade investments, and Canadian investments.** (a) Regarding the general  
 22 diversification threshold imposed under AS 21.23.080,

23 (1) except as otherwise provided in this chapter, an insurer may not  
 24 acquire, hold, or invest in, directly or indirectly through an investment subsidiary, an  
 25 investment under this chapter if, as a result of and after giving effect to the investment,  
 26 the insurer would hold more than its diversification threshold in investments of all  
 27 kinds issued, assumed, accepted, insured, or guaranteed by a single person;

28 (2) the diversification threshold limitation does not apply to the  
 29 aggregate amounts insured by a single financial guaranty insurer with the highest  
 30 generic rating issued by a nationally recognized statistical rating organization; and

31 (3) an asset-backed security is not subject to the limitations of (1) of

1 this subsection; however, an insurer may not acquire, hold, or invest in an asset-  
 2 backed security if, as a result of and after giving effect to the investment, the aggregate  
 3 amount of asset-backed securities secured by or evidencing an interest in a single asset  
 4 or single pool of assets held by a trust or other business entity then held by the insurer  
 5 would exceed the insurer's diversification threshold.

6 (b) An insurer may not acquire, hold, or invest in, directly or indirectly  
 7 through an investment subsidiary, an investment under AS 21.23.100, 21.23.130, or  
 8 21.23.160, or counterparty exposure under AS 21.23.170(e) if, as a result of and after  
 9 giving effect to the investment, the aggregate amount of

10 (1) medium-grade investments and lower-grade investments then held  
 11 by the insurer would exceed 20 percent of its admitted assets;

12 (2) lower-grade investments then held by the insurer would exceed 10  
 13 percent of its admitted assets;

14 (3) investments rated five or six by the securities valuation office then  
 15 held by the insurer would exceed its diversification threshold.

16 (4) investments rated six by the securities valuation office then held by  
 17 the insurer would exceed one percent of its admitted assets;

18 (5) medium-grade investments and lower-grade investments then held  
 19 by the insurer that receive as cash income less than the equivalent yield for United  
 20 States Treasury issues with a comparative average life would exceed one percent of its  
 21 admitted assets;

22 (6) medium-grade investments and lower-grade investments that are  
 23 issued, assumed, guaranteed, accepted, or insured by any one person or asset-backed  
 24 securities that are secured by or evidencing an interest in a single asset or pool of  
 25 assets would exceed one percent of its admitted assets; or

26 (7) lower-grade investments then held by the insurer that are issued,  
 27 assumed, guaranteed, accepted, or insured by any one person or asset-backed  
 28 securities that are secured by or evidencing an interest in a single asset or pool of  
 29 assets would exceed one half of one percent of its admitted assets.

30 (c) Regarding Canadian investments,

31 (1) an insurer may not acquire, hold, or invest in, directly or indirectly

1 through an investment subsidiary, a Canadian investment authorized by this chapter if,  
 2 as a result of and after giving effect to the investment, the aggregate amount of these  
 3 investments then held by the insurer would exceed 40 percent of its admitted assets, or  
 4 if the aggregate amount of Canadian investments then held by the insurer that are not  
 5 acquired under AS 21.23.100(a)(1)(C) or (D) or 21.23.100(b)(1) would exceed 25  
 6 percent of its admitted assets; and

7 (2) as to an insurer that is authorized to do business in Canada or that  
 8 has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident  
 9 or located in Canada and denominated in Canadian currency, the limitations of (1) of  
 10 this subsection shall be increased by the greater of

11 (A) the amount the insurer is required by Canadian law to  
 12 invest in Canada or to be denominated in Canadian currency;

13 (B) for life and health insurers, 115 percent of the amount of  
 14 the insurer's reserves and other obligations under contracts on lives or risks  
 15 resident or located in Canada; or

16 (C) for property and casualty insurers, 125 percent of the  
 17 amount of the insurer's reserves and other obligations under contracts on risks  
 18 resident or located in Canada.

19 (d) Except as otherwise provided in this chapter, this section applies to all  
 20 insurance company investments subject to this chapter.

21 **Sec. 21.23.100. Rated credit instruments.** (a) Notwithstanding  
 22 AS 21.23.090(a), an insurer may

23 (1) acquire, hold, or invest in a rated credit instrument that is issued,  
 24 assumed, guaranteed, or insured by

25 (A) the United States;

26 (B) a government-sponsored enterprise of the United States if  
 27 the instrument of the government-sponsored enterprise is assumed, guaranteed,  
 28 or insured by the United States or is otherwise backed or supported by the full  
 29 faith and credit of the United States;

30 (C) Canada; or

31 (D) a government-sponsored enterprise of Canada if the

1 instrument of the government-sponsored enterprise is assumed, guaranteed, or  
 2 insured by Canada or is otherwise backed or supported by the full faith and  
 3 credit of Canada; and

4 (2) acquire a rated credit instrument, excluding an asset-backed  
 5 security,

6 (A) issued by a government money market mutual fund, a class  
 7 one money market mutual fund, or a class one bond mutual fund;

8 (B) issued, assumed, guaranteed, or insured by a government-  
 9 sponsored enterprise of the United States other than those eligible under  
 10 (a)(1)(A) or (B) of this section;

11 (C) issued, assumed, guaranteed, or insured by a state if the  
 12 instruments are general obligations of the state; or

13 (D) issued by a multilateral development bank.

14 (b) An insurer may not acquire an instrument

15 (1) under (a)(1)(C) or (D) of this section if, as a result of and after  
 16 giving effect to the investment, the aggregate amount of investments then held by the  
 17 insurer under this subsection would exceed 40 percent of its admitted assets; or

18 (2) of any one fund, any one enterprise or entity, or any one state under  
 19 (a)(2) of this section if, as a result of and after giving effect to the investment, the  
 20 aggregate amount of investments then held in any one fund, enterprise, or entity or  
 21 state under (a)(2) of this section would exceed 10 percent of its admitted assets.

22 (c) An insurer may acquire a preferred stock that is not a foreign investment  
 23 and that meets the requirements of a rated credit instrument if, as a result of and after  
 24 giving effect to the investment, the aggregate amount of preferred stocks then held by  
 25 the insurer under this subsection

26 (1) does not exceed 20 percent of its admitted assets; and

27 (2) that are not sinking fund stocks or not rated P1 or P2 by the  
 28 securities valuation office does not exceed 10 percent of its admitted assets.

29 (d) In addition to an investment eligible under (a) - (c) of this section, an  
 30 insurer may acquire, hold, or invest in a rated credit instrument that is not a foreign  
 31 investment. An insurer may not acquire an instrument under this subsection if, as a

1 result of and after giving effect to the investment, the aggregate amount of investments  
 2 then held by the insurer under this subsection would exceed 40 percent of its admitted  
 3 assets.

4 (e) An insurer may not acquire a special rated credit instrument under this  
 5 section if, as a result of and after giving effect to the investment, the aggregate amount  
 6 of special rated credit instruments then held by the insurer would exceed five percent  
 7 of its admitted assets.

8 **Sec. 21.23.110. Insurer investment pools.** (a) An insurer may acquire, hold,  
 9 or make an investment in an investment pool that

10 (1) invests only in

11 (A) an obligation that is rated one or two by the securities  
 12 valuation office or has the equivalent of a securities valuation office one or two  
 13 rating or, in the absence of a one or two rating or equivalent rating, in an  
 14 obligation, the issuer of which has outstanding obligations that are rated one or  
 15 two or an equivalent rating by a nationally recognized statistical rating  
 16 organization recognized by the securities valuation office, and that has a  
 17 remaining maturity of

18 (i) 397 days or less or a put that entitles the holder to  
 19 receive the principal amount of the obligation that may be exercised  
 20 through maturity at specified intervals not exceeding 397 days; or

21 (ii) three years or less and a floating interest rate that  
 22 resets at least quarterly on the basis of a current short-term index,  
 23 federal funds, prime rate, treasury bills, London InterBank Offered  
 24 Rate, or commercial paper and is not subject to a maximum limit if the  
 25 obligations do not have an interest rate that varies inversely to market  
 26 interest rate changes;

27 (B) a government money market mutual fund or class one  
 28 money market mutual fund; or

29 (C) a security lending, repurchase, and reverse repurchase  
 30 transaction that meets all the requirements of AS 21.23.150, except the  
 31 quantitative limitations of AS 21.23.150(d); or

1                   (2) only makes investments that an insurer may acquire under this  
2 chapter if the insurer's proportionate interest in the amount invested in these  
3 investments does not exceed the applicable limits of this chapter.

4                   (b) An insurer may not acquire, hold, or make an investment in an investment  
5 pool if the investment pool

6                         (1) acquires a security issued, assumed, guaranteed, or insured by the  
7 insurer or an affiliate of the insurer;

8                         (2) borrows or incurs an indebtedness for borrowed money, except for  
9 securities lending and reverse repurchase transactions that meet the requirements of  
10 AS 21.23.150(a) - (c) and (e); or

11                        (3) permits the aggregate value of securities loaned or sold to,  
12 purchased from, or invested in any one business entity under this section to exceed 10  
13 percent of the total assets of the investment pool.

14                   (c) The provisions of AS 21.23.090(a) do not apply to an insurer's investment  
15 in an investment pool; however, an insurer may not acquire an investment in an  
16 investment pool under this section if, as a result of and after giving effect to the  
17 investment, the aggregate amount of investments then held by the insurer under this  
18 section in

19                         (1) any one investment pool would exceed 10 percent of the insurer's  
20 admitted assets;

21                         (2) all investment pools investing in investments permitted under  
22 (a)(2) of this section would exceed 25 percent of the insurer's admitted assets; or

23                         (3) all investment pools would exceed,

24                                 (A) for life and health insurers, 35 percent of its admitted  
25 assets; or

26                                 (B) for property and casualty insurers, 40 percent of its  
27 admitted assets.

28                   (d) An insurer may acquire, hold, or make an investment in an investment  
29 pool if the manager of the investment pool

30                         (1) is organized under the laws of the United States or a state and is  
31 designated as the pool manager in a pooling agreement;

1 (2) is

2 (A) the insurer, an affiliated insurer, a business entity affiliated  
3 with the insurer, a qualified bank, or a business entity registered under 15  
4 U.S.C. 80a-1 - 80a-3 (Investment Advisers Act of 1940);

5 (B) in the case of a reciprocal insurer or interinsurance  
6 exchange, its attorney-in-fact; or

7 (C) in the case of a United States branch of an alien insurer, its  
8 United States manager or affiliates or subsidiaries of its United States manager;

9 (3) compiles and maintains detailed accounting records setting out

10 (A) the cash receipts and disbursements reflecting each  
11 participant's proportionate investment in the investment pool;

12 (B) a complete description of all underlying assets of the  
13 investment pool, including the amount, interest rate, maturity date, if any, and  
14 other appropriate designations; and

15 (C) other records that, on a daily basis, allow third parties to  
16 verify each participant's investment in the investment pool; and

17 (4) maintains the assets of the investment pool in one or more  
18 accounts, in the name of or on behalf of the investment pool, under a custody  
19 agreement with a qualified bank; the custody agreement must

20 (A) state and recognize the claims and rights of each  
21 participant;

22 (B) acknowledge that the underlying assets of the investment  
23 pool are held solely for the benefit of each participant in proportion to the  
24 aggregate amount of its investments in the investment pool; and

25 (C) contain an agreement that the underlying assets of the  
26 investment pool may not be commingled with the general assets of the  
27 custodian qualified bank or any other person.

28 (e) The pooling agreement for each investment pool must be in writing and  
29 must provide that

30 (1) an insurer and its affiliated insurers or, in the case of an investment  
31 pool investing solely in investments permitted under (a)(1) of this section, the insurer

1 and its subsidiaries, affiliates, or any pension or profit sharing plan of the insurer, its  
 2 subsidiaries, and affiliates or, in the case of a United States branch of an alien insurer,  
 3 the affiliates or subsidiaries of its United States manager shall, at all times, hold 100  
 4 percent of the interests in the investment pool;

5 (2) the underlying assets of the investment pool may not be  
 6 commingled with the general assets of the pool manager or any other person;

7 (3) in proportion to the aggregate amount of each pool participant's  
 8 interest in the investment pool,

9 (A) each participant owns an undivided interest in the  
 10 underlying assets of the investment pool; and

11 (B) the underlying assets of the investment pool are held solely  
 12 for the benefit of each participant;

13 (4) a participant, or in the event of the participant's insolvency,  
 14 bankruptcy, or receivership, its trustee, receiver, or other successor in interest, may  
 15 withdraw all or any portion of its investment from the investment pool under the terms  
 16 of the pooling agreement;

17 (5) withdrawals may be made on demand without penalty or other  
 18 assessment on a business day, but that settlement of funds must occur within a  
 19 reasonable and customary period, not to exceed five business days, following the  
 20 demand; in each case, distributions under this paragraph must be calculated net of all  
 21 then applicable fees and expenses of the investment pool;

22 (6) the pool manager shall distribute to a participant, at the discretion  
 23 of the pool manager,

24 (A) in cash, the then fair market value of the participant's pro  
 25 rata share of each underlying asset of the investment pool;

26 (B) in kind, a pro rata share of each underlying asset; or

27 (C) in a combination of cash and in-kind distributions, a pro  
 28 rata share in each underlying asset; and

29 (7) the pool manager shall make the records of the investment pool  
 30 available for inspection by the director.

31 **Sec. 21.23.120. Equity interests.** (a) An insurer may acquire, hold, or invest

1 in an equity interest in a business entity organized under the laws of a domestic  
2 jurisdiction.

3 (b) An insurer may not acquire an investment under this section if, as a result  
4 of and after giving effect to the investment, the aggregate amount of investments then  
5 held by the insurer under this section would exceed

6 (1) for a life and health insurer, excluding an accident and health  
7 insurer, 20 percent of all admitted assets or five percent of admitted assets for equity  
8 interests then held by the insurer that are not listed on a qualified exchange; or

9 (2) for a property and casualty or accident and health insurer, the  
10 greater of 25 percent of its admitted assets or 100 percent of its policyholder surplus.

11 (c) An insurer may not acquire an investment under this section that the  
12 insurer may acquire under AS 21.23.140.

13 (d) An insurer may not short sell equity investments unless the insurer covers  
14 the short sale by owning the equity investment or an unrestricted right to the equity  
15 instrument exercisable within six months after the short sale.

16 **Sec. 21.23.130. Tangible personal property under lease.** (a) Subject to the  
17 requirements in (b) of this section, an insurer may acquire, hold, or invest in tangible  
18 personal property or an equity interest located or used wholly or in part within a  
19 domestic jurisdiction either directly or indirectly through a limited partnership interest  
20 and general partnership interest not otherwise prohibited by AS 21.23.040(a)(4), a  
21 joint venture, stock of an investment subsidiary or a membership interest in a limited  
22 liability company, a trust certificate, or another similar instrument.

23 (b) An insurer may acquire, hold, or invest in an investment under (a) of this  
24 section only if

25 (1) the property is subject to a lease or other agreement with a person  
26 whose rated credit instruments would be eligible to be acquired by the insurer under  
27 AS 21.23.100 in the amount of the purchase price of the personal property; and

28 (2) the lease or other agreement provides the insurer the right to  
29 receive rental, purchase, or other fixed payments for the use or purchase of the  
30 property, and the aggregate value of the payments, together with the estimated residual  
31 value of the property at the end of its useful life and the estimated tax benefit to the

1 insurer resulting from ownership of the property, is adequate to return the cost of the  
2 insurer's investment in the property, plus a return considered adequate by the insurer.

3 (c) The insurer shall compute the amount of each investment under this  
4 section on the basis of the out-of-pocket purchase price and applicable related  
5 expenses paid by the insurer for the investment, net of each borrowing made to finance  
6 the purchase price and expenses, to the extent the borrowing is without recourse to the  
7 insurer.

8 (d) An insurer may not acquire an investment under this section if, as a result  
9 of and after giving effect to the investment, the aggregate amount of all investments  
10 then held by the insurer under this section would exceed

11 (1) two percent of its admitted assets; or

12 (2) one-half of one percent of its admitted assets as to any single item  
13 of tangible personal property.

14 (e) For purposes of determining compliance with the limitations of  
15 AS 21.23.090, an insurer shall aggregate all investments acquired under this section  
16 with those acquired under AS 21.23.100, and each lessee of property under a lease  
17 referred to in this section shall be considered the issuer of an obligation in the amount  
18 of the investment of the insurer in the property determined as provided in (c) of this  
19 section.

20 (f) This section does not apply to a tangible personal property lease  
21 arrangements between an insurer and its subsidiaries and affiliates under a cost-  
22 sharing arrangement or agreement permitted under AS 21.22.

23 **Sec. 21.23.140. Mortgage loans and real estate.** (a) An insurer may  
24 acquire, hold, or invest in an obligation secured by a mortgage on real estate situated  
25 within a domestic jurisdiction either directly or indirectly through a limited partnership  
26 interests and general partnership interest not otherwise prohibited by  
27 AS 21.23.040(a)(4), a joint venture, stock of an investment subsidiary or a  
28 membership interest in a limited liability company, a trust certificate, or another  
29 similar instrument. An insurer may not acquire, hold, or invest in a mortgage loan that  
30 is secured by other than a first lien unless the insurer is the holder of the first lien. An  
31 obligation held by an insurer and any obligation with an equal lien priority may not, at

1 the time of acquisition of the obligation, exceed

2 (1) 90 percent of the fair market value of the real estate if the mortgage  
3 loan is secured by a purchase money mortgage or like security received by the insurer  
4 upon disposition of the real estate;

5 (2) 80 percent of the fair market value of the real estate if the mortgage  
6 loan requires immediate scheduled payment in periodic installments of principal and  
7 interest, has an amortization period of 30 years or less, and has periodic payments  
8 made no less frequently than annually, subject to the following:

9 (A) each periodic payment must be sufficient to ensure that, at  
10 all times, the outstanding principal balance of the mortgage loan will not be  
11 greater than the outstanding principal balance would be under the same  
12 mortgage loan with the same original principal balance, with the same interest  
13 rate requiring equal payments of principal and interest with the same frequency  
14 over the same amortization period;

15 (B) a mortgage loan permitted under this paragraph is  
16 permitted notwithstanding the fact that it provides for a payment of the  
17 principal balance before the end of the period of amortization of the loan;

18 (C) for a residential mortgage loan, the 80 percent limitation  
19 may be increased to 97 percent if acceptable private mortgage insurance has  
20 been obtained; or

21 (3) 75 percent of the fair market value of the real estate for a mortgage  
22 loan that does not meet the requirements of (1) or (2) of this subsection.

23 (b) For purposes of (a) of this section, the amount of an obligation required to  
24 be included in the calculation of the loan-to-value ratio may be reduced to the extent  
25 the obligation is insured by the Federal Housing Administration or guaranteed by the  
26 United States Secretary of Veterans Affairs for the United States, or its successor.

27 (c) A mortgage loan that is held by an insurer under AS 21.23.020(f) or  
28 acquired under this section and that is restructured in a manner that meets the  
29 requirements of a restructured mortgage loan in accordance with the National  
30 Association of Insurance Commissioners accounting practices and procedures manual  
31 continues to qualify as a mortgage loan under this chapter.

1 (d) A credit lease transaction that does not qualify for investment under  
2 AS 21.23.100 is exempt from the provisions of (a) of this section if

3 (1) it includes a loan amortized over the initial fixed lease term at least  
4 in an amount sufficient so that the loan balance at the end of the lease term does not  
5 exceed the original appraised value of the real estate;

6 (2) the lease payments cover or exceed the total debt service over the  
7 life of the loan;

8 (3) a tenant or its affiliated entity whose rated credit instruments have a  
9 securities valuation office one or two designation or a comparable rating from a  
10 nationally recognized statistical rating organization recognized by the securities  
11 valuation office has a full faith and credit obligation to make the lease payments;

12 (4) the insurer holds or is the beneficial holder of a first lien mortgage  
13 on the real estate;

14 (5) the expenses of the real estate, excluding exterior, structural,  
15 parking and heating, ventilation, and air conditioning replacement expenses, are  
16 passed through to the tenant, unless annual escrow contributions from cash flows  
17 derived from the lease payments cover the expense shortfall; and

18 (6) there is a perfected assignment of the rent due under the lease to or  
19 for the benefit of the insurer.

20 (e) An insurer may acquire, manage, and dispose of real estate situated in a  
21 domestic jurisdiction either directly or indirectly through a limited partnership interest  
22 and general partnership interests not otherwise prohibited in AS 21.23.040(a)(4), a  
23 joint venture, stock of an investment subsidiary or a membership interest in a limited  
24 liability company, a trust certificate, or another similar instrument, subject to the  
25 following:

26 (1) the real estate must be income-producing or intended for  
27 improvement or development for an investment purpose under an existing program, in  
28 which case the real estate is considered to be income-producing; and

29 (2) the real estate may be subject to a mortgage, lien, or other  
30 encumbrance, the amount of which must be deducted, to the extent that the obligations  
31 secured by the mortgage, lien, or encumbrance is without recourse to the insurer, from

1 the amount of the investment of the insurer in the real estate for purposes of  
2 determining compliance with (g)(2) and (3) of this section.

3 (f) An insurer may acquire, manage, and dispose of real estate for the  
4 convenient accommodation of the insurer's business operations, including affiliates,  
5 home office, branch office, and field office operations. For purposes of this  
6 subsection,

7 (1) real estate acquired

8 (A) may include excess space for rent to others if the excess  
9 space, valued at its fair market value, would otherwise be a permitted  
10 investment under (a) of this section and is so qualified by the insurer;

11 (B) may be subject to a mortgage, lien, or other encumbrance,  
12 the amount of which shall be deducted, to the extent that the obligation secured  
13 by the mortgage, lien, or encumbrance is without recourse to the insurer, from  
14 the amount of the investment of the insurer in the real estate for purposes of  
15 determining compliance with (h) of this section; and

16 (2) an insurer's business operations do not include that portion of real  
17 estate used for the direct provision of health care services by an insurer whose  
18 insurance premiums and required statutory reserves for accident and health insurance  
19 constitute at least 95 percent of total premium considerations or total statutory  
20 required reserves, respectively; an insurer may acquire real estate used for these  
21 purposes under (e) of this section.

22 (g) An insurer may not acquire an investment

23 (1) under (a) - (d) of this section if, as a result of and after giving effect  
24 to the investment, the aggregate amount of all investments then held by the insurer  
25 under (a) - (d) of this section would exceed

26 (A) one percent of its admitted assets in mortgage loans  
27 covering any one secured location;

28 (B) one-quarter of one percent of its admitted assets in  
29 construction loans covering any one secured location; or

30 (C) for life and health insurers, two percent of its admitted  
31 assets in construction loans in the aggregate or, for property and casualty

1 insurers, one percent of its admitted assets in construction loans in the  
2 aggregate;

3 (2) under (e) of this section if, as a result of and after giving effect to  
4 the investment and any outstanding guarantees made by the insurer in connection with  
5 the investment, the aggregate amount of investments then held by the insurer under (e)  
6 of this section plus the guarantees then outstanding would exceed

7 (A) one percent of its admitted assets in one parcel or group of  
8 contiguous parcels of real estate, except that this limitation does not apply to  
9 that portion of real estate used for the direct provision by an accident and  
10 health insurer of health care services, including hospitals, medical clinics,  
11 medical professional buildings, or other health facilities used for the purpose of  
12 providing health services;

13 (B) for a life and health insurer, 15 percent of its admitted  
14 assets in the aggregate, but not more than five percent of its admitted assets as  
15 to properties that are to be improved or developed;

16 (C) for a property and casualty insurer, the lesser of 10 percent  
17 of its admitted assets or 40 percent of its surplus regarding policyholders in the  
18 aggregate; or

19 (D) for an accident and health insurer, the lesser of 15 percent  
20 of its admitted assets or 40 percent of its surplus regarding policyholders in the  
21 aggregate; and

22 (3) under (a) - (e) of this section if, as a result of and after giving effect  
23 to the investment and any guarantees the insurer has made in connection with the  
24 investment, the aggregate amount of all investments then held by the insurer under  
25 (a) - (e) of this section plus the guarantees then outstanding would exceed

26 (A) for a property and casualty insurer, 25 percent of its  
27 admitted assets; or

28 (B) for a life and health insurer, 45 percent of its admitted  
29 assets; however, an insurer may exceed the limitation imposed under this  
30 subparagraph by not more than 30 percent of its admitted assets if

31 (i) this increased amount is invested only in residential

1 mortgage loans;

2 (ii) the insurer has not more than 10 percent of its  
3 admitted assets invested in mortgage loans other than residential  
4 mortgage loans;

5 (iii) the loan-to-value ratio of each residential mortgage  
6 loan does not exceed 60 percent at the time the mortgage loan is  
7 qualified under this increased authority and the fair market value is  
8 supported by an appraisal not more than two years old prepared by an  
9 independent appraiser;

10 (iv) a single mortgage loan qualified under this  
11 increased authority does not exceed one-half of one percent of its  
12 admitted assets;

13 (v) the insurer files with the director a plan that is  
14 designed to result in a portfolio of residential mortgage loans that is  
15 sufficiently geographically diversified, and the director approves the  
16 plan; and

17 (vi) the insurer agrees to file annually with the director  
18 records that demonstrate that its portfolio of residential mortgage loans  
19 is geographically diversified under the plan.

20 (h) The limitations of AS 21.23.090 do not apply to an insurer's acquisition of  
21 real estate under (f) of this section. An insurer may not acquire real estate under (f) of  
22 this section if, as a result of and after giving effect to the acquisition, the aggregate  
23 amount of real estate then held by the insurer under (f) of this section would exceed 10  
24 percent of its admitted assets, unless the director gives written permission to acquire  
25 additional amounts of real estate under (f) of this section.

26 **Sec. 21.23.150. Securities lending, repurchase, reverse repurchase, and**  
27 **dollar roll transactions.** (a) An insurer may enter into a securities lending,  
28 repurchase, reverse repurchase, and dollar roll transaction with a business entity if the  
29 insurer's board of directors adopts a written plan that is consistent with the  
30 requirements of the written plan in AS 21.23.030(a) that specifies guidelines and  
31 objectives to be followed, including

1 (1) a description of how cash received will be invested or used for  
2 general corporate purposes of the insurer;

3 (2) operational procedures to manage interest rate risk, counterparty  
4 default risk, the conditions under which proceeds from reverse repurchase transactions  
5 may be used in the ordinary course of business, and the use of acceptable collateral in  
6 a manner that reflects the liquidity needs of the transaction; and

7 (3) the extent to which the insurer may engage in these transactions.

8 (b) An insurer shall enter into a written agreement for each transaction  
9 authorized in this section other than a dollar roll transaction. The written agreement  
10 must require that each transaction terminate not more than one year from its inception  
11 or upon the earlier demand of the insurer. The agreement must be with a business  
12 entity counterparty, except that, for a securities lending transaction, the agreement  
13 may be with an agent acting on behalf of the insurer if the agent is a qualified business  
14 entity and if the agreement

15 (1) requires the agent to enter into a separate agreement with each  
16 counterparty that is consistent with the requirements of this section; and

17 (2) prohibits a securities lending transaction under the agreement with  
18 the agent or its affiliates.

19 (c) An insurer shall use cash received in a transaction under this section for a  
20 general corporate purpose of the insurer or shall invest it in accordance with this  
21 chapter and in a manner that recognizes the liquidity needs of the transaction. For so  
22 long as the transaction remains outstanding, acceptable collateral received by an  
23 insurer in a transaction under this section, either physically or through the book entry  
24 systems of the Federal Reserve, Depository Trust Company, Participants Trust  
25 Company, or another securities depository approved by the director, must be  
26 maintained by the insurer or its agent or custodian through

27 (1) possession of the acceptable collateral;

28 (2) a perfected security interest in the acceptable collateral; or

29 (3) in the case of a jurisdiction outside of the United States, title to or  
30 rights of a secured creditor to the acceptable collateral.

31 (d) The limitations of AS 21.23.090 and 21.23.160 do not apply to a business

1 entity counterparty exposure created by a transaction under this section. For purposes  
 2 of calculations made to determine compliance with this subsection, an insurer may not  
 3 give effect to the insurer's future obligation, in the case of a repurchase transaction, to  
 4 resell a security or, in the case of a reverse repurchase transaction, to repurchase a  
 5 security. An insurer may not enter into a transaction under this section if, as a result of  
 6 and after giving effect to the transaction, the aggregate amount of

7 (1) securities then loaned to, sold to, or purchased from any one  
 8 business entity counterparty under this section would exceed five percent of its  
 9 admitted assets, except that, in calculating the amount sold to or purchased from a  
 10 business entity counterparty under repurchase or reverse repurchase transactions, an  
 11 insurer may give effect to netting provisions under a master written agreement; or

12 (2) all securities then loaned to, sold to, or purchased from all business  
 13 entities under this section would exceed 40 percent of the insurer's admitted assets,  
 14 except that, for property and casualty insurers, the limitation of this paragraph does not  
 15 apply to reverse repurchase transactions if the borrowing is used to meet operational  
 16 liquidity requirements resulting from an officially declared catastrophe under a plan  
 17 approved by the director.

18 (e) An insurer may not engage in a

19 (1) security lending transaction unless the insurer receives acceptable  
 20 collateral having a market value as of the transaction date at least equal to 102 percent  
 21 of the market value of the securities loaned by the insurer in the transaction as of that  
 22 date; if, at any time, the market value of the acceptable collateral is less than the  
 23 market value of the loaned securities, the business entity counterparty must be  
 24 obligated under the transaction to deliver additional acceptable collateral, the market  
 25 value of which, together with the market value of all acceptable collateral then held in  
 26 connection with the transaction, is at least equal to 102 percent of the market value of  
 27 the loaned securities;

28 (2) reverse repurchase transaction, other than a dollar roll transaction,  
 29 unless the insurer receives acceptable collateral having a market value as of the  
 30 transaction date at least equal to 95 percent of the market value of the securities  
 31 transferred by the insurer in the transaction as of that date; if, at any time, the market

1 value of the acceptable collateral is less than 95 percent of the market value of the  
 2 securities transferred, the business entity counterparty must be obligated under the  
 3 transaction to deliver additional acceptable collateral, the market value of which,  
 4 together with the market value of all acceptable collateral then held in connection with  
 5 the transaction, is at least equal to 95 percent of the market value of the transferred  
 6 securities;

7 (3) dollar roll transaction unless the insurer receives cash in an amount  
 8 at least equal to the market value of the securities transferred by the insurer in the  
 9 transaction as of the transaction date;

10 (4) repurchase transaction unless the insurer receives as acceptable  
 11 collateral transferred securities having a market value at least equal to 102 percent of  
 12 the purchase price paid by the insurer for the securities; if, at any time, the market  
 13 value of the acceptable collateral is less than 100 percent of the purchase price paid by  
 14 the insurer, the business entity counterparty must be obligated under the transaction to  
 15 provide additional acceptable collateral, the market value of which, together with the  
 16 market value of all acceptable collateral then held in connection with the transaction,  
 17 is at least equal to 102 percent of the purchase price; securities acquired by an insurer  
 18 in a repurchase transaction may not be sold in a reverse repurchase transaction, loaned  
 19 in a securities lending transaction, or otherwise pledged.

20 (f) In this section, "acceptable collateral" does not include a letter of credit that  
 21 has an expiration date that is not beyond the term of the subject transaction.

22 **Sec. 21.23.160. Foreign investments and foreign currency exposure.** (a)  
 23 An insurer may acquire, hold, or invest in a foreign investment or engage in an  
 24 investment practice with a person of or in a foreign jurisdiction, of substantially the  
 25 same type that an insurer is permitted to acquire, hold, or invest in under this chapter,  
 26 other than of the type permitted under AS 21.23.110, if, as a result and after giving  
 27 effect to the investment, the aggregate amount of foreign investments then held by the  
 28 insurer under this subsection

29 (1) does not exceed 20 percent of its admitted assets; and

30 (2) in a single foreign jurisdiction does not exceed 10 percent of its  
 31 admitted assets as to a foreign jurisdiction that has a sovereign debt securities

1 valuation office rating of one or does not exceed the insurer's diversification threshold  
2 as to any other foreign jurisdiction.

3 (b) An insurer may acquire, hold, or make an investment, or engage in an  
4 investment practice denominated in a foreign currency, or acquire additional foreign  
5 currency exposure as a result of the termination or expiration of a hedging transaction  
6 with respect to an investment denominated in a foreign currency, if

7 (1) the aggregate amount of investments then held by the insurer under  
8 this subsection denominated in a foreign currency does not exceed

9 (A) for a life and health insurer, 10 percent of its admitted  
10 assets; or

11 (B) for a property and casualty insurer, 15 percent of its  
12 admitted assets; and

13 (2) the aggregate amount of investments then held by the insurer under  
14 this subsection denominated in the foreign currency of a single foreign jurisdiction  
15 does not exceed 10 percent of its admitted assets as to a foreign jurisdiction that has a  
16 sovereign debt securities valuation office rating of one or does not exceed the insurer's  
17 diversification threshold as to any other foreign jurisdiction.

18 (c) An investment will not be considered denominated in a foreign currency if  
19 the acquiring insurer enters into one or more contracts in transactions permitted under  
20 AS 21.23.170 and the business entity counterparty agrees, under the contract or  
21 contracts, to exchange all payments made on the foreign currency denominated  
22 investment for United States currency at a rate that effectively insulates the investment  
23 cash flows against future changes in currency exchange rates during the period the  
24 contract or contracts are in effect.

25 (d) In addition to an investment permitted under (a) and (b) of this section, an  
26 insurer that is authorized to do business in a foreign jurisdiction and that has  
27 outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or  
28 located in that foreign jurisdiction and denominated in foreign currency of that  
29 jurisdiction may acquire a foreign investment respecting that foreign jurisdiction and  
30 may acquire an investment denominated in the currency of that jurisdiction. An  
31 investment made under this subsection in an obligation of a foreign government, a

1 political subdivision of a foreign government, or a government-sponsored enterprise of  
 2 a foreign government is not subject to the limitations of AS 21.23.090 if the  
 3 investment carries a securities valuation office rating of one or two. The aggregate  
 4 amount of investments acquired by the insurer under this subsection may not exceed  
 5 the greater of

6 (1) the amount the insurer is required by the law of the foreign  
 7 jurisdiction to invest in the foreign jurisdiction;

8 (2) for a life and health insurer, 115 percent of the amount of its  
 9 reserves, net of reinsurance, and other obligations under the contracts on lives or risks  
 10 resident or located in the foreign jurisdiction; or

11 (3) for a property and casualty insurer, 125 percent of the amount of its  
 12 reserves, net of reinsurance, and other obligations under the contracts on lives or risks  
 13 resident or located in the foreign jurisdiction.

14 (e) In addition to an investment permitted under (a) and (b) of this section, an  
 15 insurer that is not authorized to do business in a foreign jurisdiction but that has  
 16 outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or  
 17 located in that foreign jurisdiction and denominated in foreign currency of that  
 18 jurisdiction may acquire a foreign investment respecting that foreign jurisdiction and  
 19 may acquire an investment denominated in the currency of that jurisdiction. An  
 20 investment made under this subsection in an obligation of a foreign government, a  
 21 political subdivision of a foreign government, and a government-sponsored enterprise  
 22 of a foreign government is not subject to the limitations of AS 21.23.090 if the  
 23 investment carries a securities valuation office rating of one or two. The aggregate  
 24 amount of investments acquired by the insurer under this subsection may not exceed  
 25 105 percent of the amount of its reserves, net of reinsurance, and other obligations  
 26 under the contracts on lives or risks resident or located in the foreign jurisdiction.

27 (f) An insurer shall aggregate investments permitted to be acquired under this  
 28 section with investments of the same types made under all other sections of this  
 29 chapter, and in a similar manner, for purposes of determining compliance with the  
 30 limitations, if any, contained in the other sections of this chapter.

31 **Sec. 21.23.170. Derivative transactions.** (a) An insurer may, directly or

1 indirectly through an investment subsidiary, engage in a derivative transaction under  
2 the following conditions:

3 (1) an insurer may use a derivative instrument to engage in a hedging  
4 transaction or in an income generation transaction; and

5 (2) an insurer shall demonstrate to the director the intended hedging  
6 characteristics and the ongoing effectiveness of the derivative transaction or  
7 combination of the transactions through cash-flow testing or other appropriate  
8 analyses.

9 (b) An insurer may enter into a hedging transaction if, as a result of and after  
10 giving effect to the transaction,

11 (1) the aggregate statement value of options, caps, floors, and warrants  
12 not attached to another financial instrument purchased and used in hedging  
13 transactions does not exceed seven and one-half percent of the insurer's admitted  
14 assets;

15 (2) the aggregate statement value of options, caps, and floors written in  
16 hedging transactions does not exceed three percent of the insurer's admitted assets;

17 (3) the aggregate potential exposure of collars, swaps, forwards, and  
18 futures used in hedging transactions does not exceed six and one-half percent of the  
19 insurer's admitted assets.

20 (c) Except as otherwise provided in (d) of this section, an insurer may enter  
21 into an income generation transaction if, as a result of and after giving effect to the  
22 transaction, the aggregate statement value of the fixed income assets that are subject to  
23 call or that generate the cash flows for payments under the caps or floors, the face  
24 value of fixed income securities underlying a derivative instrument subject to call, and  
25 the amount of the purchase obligations under the puts does not exceed 10 percent of its  
26 admitted assets.

27 (d) An insurer may only enter into an income generation transaction of the  
28 following type:

29 (1) a sale of a covered call option on a

30 (A) noncallable fixed income security;

31 (B) callable fixed income security if the option expires by its

1 terms before the end of the noncallable period; or

2 (C) derivative instrument based on a fixed income security;

3 (2) a sale of a covered call option on an equity security if the insurer  
4 holds in its portfolio or can immediately acquire the equity security subject to call  
5 during the complete term of the call option sold, through the exercise of an option,  
6 warrant, or conversion right already owned;

7 (3) a sale of a covered put on an investment that the insurer is  
8 permitted to acquire under this chapter if the insurer has escrowed or has entered into a  
9 custodian agreement segregating cash or cash equivalents with a market value equal to  
10 the amount of its purchase obligations under the put during the complete term of the  
11 put option sold;

12 (4) a sale of a covered cap or floor if the insurer holds in its portfolio  
13 the investments generating the cash flow to make the required payments under the cap  
14 or floor during the complete term that the cap or floor is outstanding.

15 (e) An insurer shall include all counterparty exposure amounts in determining  
16 compliance with the limitations of AS 21.23.090.

17 (f) The director may, by regulation, approve an additional transaction  
18 involving the use of a derivative instrument in excess of the limits of (b) of this section  
19 or for other risk management purposes, but a replication transaction is not permitted  
20 for other than a risk management purpose.

21 **Sec. 21.23.180. Policy loans.** A life and health insurer may lend to a  
22 policyholder on the security of the cash surrender value of the policyholder's policy a  
23 sum not exceeding the legal reserve that the insurer is required to maintain on the  
24 policy.

25 **Sec. 21.23.190. Investment transactions with affiliated or controlling**  
26 **persons.** (a) Except as provided in this section, an insurer may not

27 (1) invest in an otherwise eligible investment issued by or due from an  
28 affiliated party;

29 (2) purchase from an affiliated party an otherwise eligible investment;  
30 or

31 (3) use the services of a broker or commissioned sales agent who is an

1 affiliated or controlling person in securing an otherwise eligible investment without  
2 first fulfilling the obligations imposed under this section.

3 (b) Before completing an investment activity with or through an affiliated or  
4 controlling person or completing a transaction of the type listed in (f) of this section,  
5 an insurer shall fully disclose and document in writing to its board of directors and the  
6 committee authorized by the board and charged with the supervision or making of the  
7 investment or loan involved the material facts concerning the affiliation or  
8 circumstances of control. An insurer may not complete an investment activity with or  
9 through an affiliated or controlling person unless the board of directors, by specific  
10 board action, authorizes the transaction and concludes that the transaction complies  
11 with (c) and (d) of this section. The vote of the board authorizing the transaction must  
12 be recorded in the minutes on a member-by-member basis and must indicate each vote  
13 approving, disapproving, or abstaining on the transaction.

14 (c) An insurer shall consummate an investment or loan with an affiliated or  
15 controlling person at current market transfer prices and under a fee structure and at  
16 interest or discount rates that are commercially reasonable in the area in which the  
17 transaction occurs.

18 (d) The insurer's board of directors is responsible for determining that a  
19 transfer price is at current market and for determining the commercial reasonableness  
20 of a transaction with an affiliated or controlling person. The board of directors may  
21 rely on an independent third-party expert in making its determination.

22 (e) This section does not apply to a policy loan or to a circumstance in which  
23 the financial interest of the affiliated or controlling party is only nominal or so remote  
24 as not to give rise to a conflict of interest.

25 (f) A domestic insurer, either alone or in cooperation with one or more  
26 persons, may organize or acquire one or more subsidiaries engaged in the following  
27 kinds of business:

- 28 (1) insurance business authorized by this title;  
29 (2) acting as an insurance producer or as an insurance agent for the  
30 insurer's parent or for any of the insurer's parent's insurer subsidiaries and controlled  
31 affiliates;

1                   (3) investing, reinvesting, or trading in securities for the insurer's own  
2 account or an account of the insurer's parent, a subsidiary of the insurer's parent, an  
3 affiliate, or a subsidiary;

4                   (4) management of an investment company subject to or registered  
5 under 15 U.S.C. 80a-1 - 80b-21 (Investment Company Act of 1940), including related  
6 sales and services;

7                   (5) acting as a broker-dealer subject to or registered under 15 U.S.C.  
8 77 - 78 (Securities Exchange Act of 1934);

9                   (6) rendering investment advice to a government, government agency,  
10 corporation, or other organization or group;

11                   (7) rendering other services related to the operations of an insurance  
12 business, including actuarial, loss prevention, safety engineering, data processing,  
13 accounting, claims, appraisal, and collection services;

14                   (8) ownership and management of assets that the parent corporation  
15 could own or manage;

16                   (9) acting as administrative agent for a governmental instrumentality  
17 that is performing an insurance function;

18                   (10) financing an insurance premium, agent, and other form of  
19 consumer financing;

20                   (11) any other business activity determined by the director in writing  
21 using the standards set out in this section to be reasonably ancillary to an insurance  
22 business;

23                   (12) owning a corporation engaged or organized to engage exclusively  
24 in one or more of the businesses specified in this section.

25                   (g) A domestic insurer may also

26                   (1) invest in a security described in AS 21.23.100 - 21.23.120 of a  
27 subsidiary in an amount that does not exceed the lesser of 10 percent of the insurer's  
28 assets or 50 percent of the insurer's policyholders surplus if, after the investment, the  
29 insurer's policyholder surplus is reasonable in relation to the insurer's outstanding  
30 liabilities and adequate to the insurer's financial needs; in calculating the amount of  
31 the investment, an insurer may not include investment in a domestic or foreign

1 insurance subsidiary, but shall include the following:

2 (A) total net money or other consideration expended and all  
3 obligations assumed in the acquisition or formation of a subsidiary, including  
4 all organization expenses and contributions to capital and surplus of the  
5 subsidiary if represented or not represented by the purchase of capital stock or  
6 issuance of other securities; and

7 (B) all amounts expended in acquiring additional securities  
8 described in AS 21.23.100 - 21.23.120 and all contributions to the capital or  
9 surplus of a subsidiary subsequent to the subsidiary's acquisition or formation;

10 (2) invest an amount in a security described in AS 21.23.100 -  
11 21.23.120 of a subsidiary engaged or organized to engage exclusively in the  
12 ownership and management of assets authorized as an investment for the insurer if that  
13 subsidiary agrees to limit the subsidiary's investment in an asset in a way that the  
14 investment does not cause the amount of the total investment of the insurer to exceed  
15 the investment limitations specified in (1) of this subsection or AS 21.23.090; for the  
16 purpose of this paragraph, the total investment of the insurer includes

17 (A) a direct investment by the insurer in an asset; and

18 (B) the insurer's proportionate share of an investment in an  
19 asset by a subsidiary of the insurer calculated by multiplying the amount of the  
20 subsidiary's investment by the percentage of the ownership in the subsidiary;  
21 or

22 (3) with the prior written approval of the director, invest a greater  
23 amount in a security described in AS 21.23.100 - 21.23.120 of a subsidiary if after the  
24 investment the insurer's policyholder surplus is reasonable in relation to the insurer's  
25 outstanding liabilities and adequate to the insurer's financial needs.

26 (h) A domestic insurer shall determine if an investment meets the applicable  
27 requirements under (g) of this section before the investment is made by calculating the  
28 applicable investment limitations under AS 21.23.090 as though the investment had  
29 already been made and by taking into account the existing outstanding principal  
30 balance on all previous investments under AS 21.23.100 - 21.23.120, calculated at  
31 statement value, giving effect to a return of capital invested and not giving effect to

1 dividends.

2 (i) If an insurer ceases to control a subsidiary, the insurer shall dispose of an  
3 investment in the subsidiary made under this section within three years after cessation  
4 of control or within a further time that the director prescribes unless, at any time after  
5 the investment has been made, the investment meets the requirements for investment  
6 under another section of this chapter and the insurer has notified the director regarding  
7 the application of another section of this chapter to the investment.

8 (j) In this section, "subsidiary" has the meaning given in AS 21.22.200.

9 **Sec. 21.23.200. Additional investment authority.** (a) Solely for the purpose  
10 of acquiring an investment that exceeds the quantitative limitations of AS 21.23.090 -  
11 21.23.160, a life and health insurer may acquire, hold, or make an investment or  
12 engage in an investment practice described in AS 21.23.150, but the insurer may not  
13 acquire, hold, or make an investment or engage in an investment practice described in  
14 AS 21.23.150 under this subsection if, as a result of and after giving effect to the  
15 transaction, the aggregate amount of investments then held by the insurer under this  
16 subsection

17 (1) would exceed three percent of its admitted assets; or

18 (2) as to one limitation in AS 21.23.090 - 21.23.160 would exceed one  
19 percent of its admitted assets.

20 (b) In addition to the authority provided under (a) of this section, a life and  
21 health insurer may acquire, hold, or make an investment of any kind or engage in an  
22 investment practice described in AS 21.23.150 that is not specifically prohibited by  
23 this chapter without regard for the category, condition, standard, or other limitation of  
24 AS 21.23.090 - 21.23.160 if, as a result of and after giving effect to the transaction, the  
25 aggregate amount of investments then held under this subsection would not exceed the  
26 lesser of

27 (1) 10 percent of its admitted assets; or

28 (2) 75 percent of its capital and surplus.

29 (c) In addition to an investment acquired under (a) and (b) of this section, a  
30 life and health insurer may acquire, hold, or make an investment of any kind or engage  
31 in an investment practice described in AS 21.23.150 that is not specifically prohibited

1 by this chapter without regard to any limitations of AS 21.23.090 - 21.23.160 if

2 (1) the director grants prior approval;

3 (2) the insurer demonstrates that the investment is being made in a  
4 prudent manner and that the additional amount will be invested in a prudent manner;  
5 and

6 (3) as a result of and after giving effect to the transaction, the  
7 aggregate amount of investments then held by the insurer under this subsection does  
8 not exceed the greater of

9 (A) 25 percent of its capital and surplus; or

10 (B) 100 percent of capital and surplus less 10 percent of its  
11 admitted assets.

12 (d) A property and casualty insurer may acquire, hold, or make an investment  
13 of any kind or engage in an investment practice that is not specifically prohibited by  
14 this chapter without regard to any limitation in AS 21.23.090 - 21.23.160, except that  
15 the insurer may not acquire, hold, or make an investment or engage in an investment  
16 practice under this section if, as a result of and after giving effect to the transaction,  
17 the aggregate amount of the investments then held by the insurer under this section  
18 would exceed the greater of

19 (1) its unrestricted surplus; or

20 (2) the lesser of

21 (A) 10 percent of its admitted assets; or

22 (B) 50 percent of its policyholder surplus.

23 (e) An insurer may not acquire, hold, or make an investment or engage in an  
24 investment practice under this section if, as a result of and after giving effect to the  
25 transaction, the aggregate amount of all investments in any one person then held by  
26 the insurer under this section would exceed the diversification threshold imposed  
27 under AS 21.22.080 and 21.22.090.

28 (f) An insurer may not acquire, hold, or make an investment under this section  
29 that is prohibited under AS 21.23.040 or not permitted under AS 21.23.170, and may  
30 not acquire, hold, or invest in under this section additional derivative instruments  
31 under AS 21.23.170.

1           **Sec. 21.23.210. Reserve requirement.** (a) Subject to all other limitations  
 2 and requirements of this chapter, a property and casualty insurer, or accident and  
 3 health insurer shall maintain an amount at least equal to 100 percent of adjusted loss  
 4 reserves and loss adjustment expense reserves, 100 percent of adjusted unearned  
 5 premium reserves, and 100 percent of statutorily required policy and contract reserves  
 6 in

7                           (1) cash and cash equivalents;

8                           (2) the fully insured portion of a bank deposit when the insurance is  
 9 provided by a solvent agency of the United States government or by collateral in the  
 10 form of a security provided for under AS 21.23.100(a) and (b);

11                          (3) a bank certificate of deposit, subject to review by the director; if the  
 12 director determines that the amount of the certificate of deposit purchased by an  
 13 insurer in any one bank is not a sound investment, the director may require the insurer  
 14 to liquidate that portion found to be an unsound investment;

15                          (4) a share or savings account of a savings and loan or building and  
 16 loan association, to the extent that an account is insured by the Federal Deposit  
 17 Insurance Corporation;

18                          (5) a high-grade investment or medium-grade investment that qualifies  
 19 under AS 21.23.100(a) and (b);

20                          (6) an equity interest that qualifies under AS 21.23.120 and that is  
 21 traded on a qualified exchange;

22                          (7) an investment of the type set out in AS 21.23.160 if the investment  
 23 is rated in the highest generic rating category by a nationally recognized statistical  
 24 rating organization recognized by the securities valuation office for rating foreign  
 25 jurisdictions and if any foreign currency exposure is effectively hedged through the  
 26 maturity date of the investment;

27                          (8) a qualifying investment of the type set out in (5), (6), or (7) of this  
 28 subsection that is acquired, held, or invested in under AS 21.23.200;

29                          (9) interest and dividends receivable on a qualifying investment of the  
 30 type set out in (1) - (8) of this subsection; or

31                          (10) reinsurance recoverable on a paid loss.

1 (b) For purposes of determining the amount of assets to be maintained under  
2 (a) of this section,

3 (1) the calculation of adjusted loss reserves and loss adjustment  
4 expense reserves, adjusted unearned premium reserves, and statutorily required policy  
5 and contract reserves must be based on the amounts reported as of the most recent  
6 annual or quarterly statement date;

7 (2) adjusted loss reserves and loss adjustment expense reserves must  
8 be equal to the sum of the amounts derived from the following calculation, with the  
9 unpaid amounts determined net of anticipated salvage and subrogation and gross of  
10 any discount for the time value of money or tabular discount:

11 (A) each amount reported by the insurer as losses and loss  
12 adjustment expenses unpaid for each accident year for each individual line of  
13 business; multiplied by

14 (B) the discount factor that is applicable to the line of business  
15 and accident year published under 26 U.S.C. 846 (Internal Revenue Code) for  
16 the calendar year that corresponds to the most recent annual statement of the  
17 insurer; from the product of (A) and (B) of this paragraph, subtract

18 (C) accrued retrospective premiums discounted by an average  
19 discount factor; the average discount factor is calculated by dividing the losses  
20 and loss adjustment expenses unpaid after discounting the product of (A) and  
21 (B) of this paragraph by the insurer's loss and loss adjustment expense reserves  
22 determined before discounting (A) of this paragraph;

23 (3) adjusted unearned premium reserves must be equal to the amount  
24 reported by the insurer as unearned premium reserves minus the admitted asset  
25 amounts reported by the insurer as

26 (A) premiums and agents' balances in the course of collection,  
27 accident and health premiums due and unpaid, and uncollected premiums for  
28 accident and health premiums;

29 (B) premiums, agents' balances, and installments booked but  
30 deferred and not yet due; and

31 (C) bills receivable, taken for premium; and

1 (4) statutorily required policy and contract reserves must also include  
 2 the amounts required by the National Association of Insurance Commissioners  
 3 accounting practices and procedures manual for additional or contingency reserves  
 4 and any other reserves that are not covered by the terms "loss reserves," "loss  
 5 adjustment expense reserves," and "unearned premium reserves."

6 (c) A property and casualty insurer or accident and health insurer shall  
 7 supplement its annual statement with a reconciliation and summary of its assets and  
 8 reserve requirements as required in (a) of this section. A reconciliation and summary  
 9 showing that an insurer's assets as required in (a) of this section are greater than or  
 10 equal to its undiscounted reserves referred to in (a) of this section is sufficient to  
 11 satisfy this requirement. Upon prior notification, the director may require an insurer to  
 12 submit a reconciliation and summary with a quarterly statement filed during the  
 13 calendar year.

14 (d) If a property and casualty insurer or accident and health insurer has assets  
 15 and reserves that do not comply with (a) of this section, the insurer shall notify the  
 16 director immediately of the amount by which the reserve requirements exceed the  
 17 annual statement value of the qualifying assets, explain why the deficiency exists, and,  
 18 within 30 days of the date of the notice, propose a plan of action to remedy the  
 19 deficiency.

20 (e) If the director determines that an insurer is not in compliance with (a) of  
 21 this section, the director shall require the insurer to eliminate the condition causing the  
 22 noncompliance within a specified time from the date the notice of the director's  
 23 requirement is mailed or delivered to the insurer. If an insurer fails to comply with the  
 24 director's requirement, the insurer is considered to be in hazardous financial condition,  
 25 and the director shall take one or more of the actions authorized by law as to insurers  
 26 in a hazardous financial condition.

27 **Sec. 21.23.900. Definitions.** In this chapter, unless the context otherwise  
 28 requires,

29 (1) "acceptable collateral" means

30 (A) as to a securities lending transaction and for the  
 31 purpose of calculating counterparty exposure amount, cash, cash

1           equivalents, letters of credit, direct obligations of or securities that are  
2           fully guaranteed as to principal and interest by the government of the  
3           United States or any agency of the United States or by the Federal  
4           National Mortgage Association or the Federal Home Loan Mortgage  
5           Corporation, and, as to lending foreign securities, sovereign debt with a  
6           securities valuation office rating of one;

7                       (B) as to a repurchase transaction, cash, cash  
8           equivalents, and direct obligations of or securities that are fully  
9           guaranteed as to principal and interest by the government of the United  
10          States or an agency of the United States or by the Federal National  
11          Mortgage Association or the Federal Home Loan Mortgage  
12          Corporation;

13                      (C) as to a reverse repurchase transaction, cash and cash  
14          equivalents;

15                      (2) "acceptable private mortgage insurance" means insurance written  
16          by a private insurer protecting a mortgage lender against loss occasioned by a  
17          mortgage loan default and issued by a licensed mortgage insurance company with a  
18          securities valuation office rating of one or a rating issued by a nationally recognized  
19          statistical rating organization equivalent to a securities valuation office rating of one,  
20          that covers losses to an 80 percent loan-to-value ratio;

21                      (3) "accident and health insurance" means protection that provides  
22          payment of benefits for covered sickness or accidental injury; "accident and health  
23          insurance" does not include credit insurance, disability insurance, accidental death and  
24          dismemberment insurance, and long-term care insurance;

25                      (4) "accident and health insurer" means a licensed life and health  
26          insurer or hospital medical service corporation whose insurance premiums and  
27          required statutory reserves for accident and health insurance constitute at least 95  
28          percent of total premium considerations or total statutory required reserves,  
29          respectively;

30                      (5) "admitted assets" means assets permitted by AS 21.18.010 to be  
31          reported as admitted assets on the statutory financial statement of the insurer most

1 recently required to be filed with the director;

2 (6) "affiliate" means, as to any person, another person that, directly or  
3 indirectly through one or more intermediaries, controls, is controlled by, or is under  
4 common control with the person;

5 (7) "asset-backed security" means a security or other instrument  
6 evidencing an interest in or the right to receive payments from or payable from  
7 distributions on an asset, a pool of assets, or specifically divisible cash flows that are  
8 legally transferred to a trust or another special purpose bankruptcy-remote business  
9 entity, on the following conditions: (A) the trust or other business entity is established  
10 solely for the purpose of acquiring specific types of assets or rights to cash flows,  
11 issuing securities and other instruments representing an interest in or right to receive  
12 cash flows from those assets or rights, and engaging in activities required to service  
13 the assets or rights and any credit enhancement or support features held by the trust or  
14 other business entity; (B) the assets of the trust or other business entity consist solely  
15 of interest-bearing obligations or other contractual obligations representing the right to  
16 receive payment from cash flows, assets, or rights; however, the existence of credit  
17 enhancements, including letters of credit or guarantees, or support features, including  
18 swap agreements, does not cause a security or other instrument to be ineligible as an  
19 asset-backed security; "asset-backed security" does not include a mutual fund;

20 (8) "bank" means an organization organized under the laws of a state  
21 requiring the permission of either the United States Comptroller of the Currency or the  
22 state of domicile director of banking or equivalent state officer to both accept deposits  
23 of individuals and businesses and make commercial loans and whose deposits are  
24 insured by the Federal Deposit Insurance Corporation;

25 (9) "business entity" means a sole proprietorship, corporation, limited  
26 liability company, association, partnership, joint stock company, joint venture, mutual  
27 fund, trust, joint tenancy, or other similar form of business organization, whether  
28 organized for profit or not for profit;

29 (10) "cap" means an agreement obligating the seller to make payments  
30 to the buyer, in which each payment is based on the amount by which a reference price  
31 or level or the performance or value of one or more underlying interests exceeds a

1 predetermined number;

2 (11) "capital and surplus" means the sum of the capital and surplus of  
3 the insurer required to be shown on the financial statement of the insurer most recently  
4 required to be filed with the director;

5 (12) "cash equivalents" means short-term, highly rated, and highly  
6 liquid investments or securities readily convertible to known amounts of cash without  
7 penalty and nearing maturity to the degree that they present insignificant risk of  
8 change in value; "cash equivalents" include government money market mutual funds  
9 and class one money market mutual funds; in this paragraph,

10 (A) "highly rated" means an investment rated "P-1" by  
11 Moody's Investors Service, Inc., or "A-1" by the Standard and Poor's division  
12 of The McGraw Hill Companies, Inc., or its equivalent rating by a nationally  
13 recognized statistical rating organization recognized by the securities valuation  
14 office;

15 (B) "short-term" means investments with a remaining term to  
16 maturity of 90 days or less;

17 (13) "class one bond mutual fund" means a mutual fund that, at all  
18 times, qualifies for investment using the bond class one reserve factor under the  
19 purposes and procedures manual of the securities valuation office;

20 (14) "class one money market mutual fund" means a money market  
21 mutual fund that, at all times, qualifies for investment using the bond class one reserve  
22 factor under the purposes and procedures manual of the securities valuation office;

23 (15) "collar" means an agreement to receive payments as the buyer of  
24 an option, cap, or floor and to make payments as the seller of a different option, cap,  
25 or floor;

26 (16) "construction loans" means loans of less than three years in term  
27 that are made for financing the cost of construction of buildings or other  
28 improvements to real estate and that are secured by the real estate;

29 (17) "control" has the meaning given in AS 21.22.200;

30 (18) "counterparty exposure amount" means

31 (A) the net amount of credit risk attributable to a derivative

1 instrument entered into with a business entity other than through a qualified  
 2 exchange or qualified foreign exchange, or cleared through a qualified  
 3 clearinghouse, over-the-counter derivative instrument; for purposes of this  
 4 paragraph, the amount of credit risk equals

5 (i) the market value of the over-the-counter derivative  
 6 instrument if the liquidation of the derivative instrument would result in  
 7 a final cash payment to the insurer; or

8 (ii) zero if the liquidation of the derivative instrument  
 9 would not result in a final cash payment to the insurer;

10 (B) if over-the-counter derivative instruments are entered into  
 11 under a written master agreement that provides for netting of payments owed  
 12 by the respective parties and if the domiciliary jurisdiction of the counterparty  
 13 is either within the United States or, if not within the United States, within a  
 14 foreign jurisdiction listed in the purposes and procedures manual of the  
 15 securities valuation office as eligible for netting, the net amount of credit risk  
 16 that is the greater of zero or the net sum of

17 (i) the market value of the over-the-counter derivative  
 18 instruments entered into under the agreement, the liquidation of which  
 19 would result in a final cash payment to the insurer; and

20 (ii) the market value of the over-the-counter derivative  
 21 instruments entered into under the agreement, the liquidation of which  
 22 would result in a final cash payment by the insurer to the business  
 23 entity;

24 (C) for open transactions, the market value that is determined at  
 25 the end of the most recent quarter of the insurer's fiscal year and reduced by  
 26 the market value of acceptable collateral held by the insurer or placed in  
 27 escrow by one or both parties;

28 (19) "covered" means that an insurer owns or can immediately acquire,  
 29 through the exercise of options, warrants, or conversion rights already owned, the  
 30 underlying interest in order to fulfill or secure its obligations under a call option, cap,  
 31 or floor it has written, or has set aside, under a custodial or escrow agreement, cash or

1 cash equivalents with a market value equal to the amount required to fulfill its  
2 obligations under a put option it has written in an income generation transaction;

3 (20) "credit lease transaction" means a credit tenant loan that involves  
4 a lease for a specified period of time with specified rent payments at least sufficient to  
5 repay the related note and as more particularly defined in the purposes and procedure  
6 manual for the securities valuation office of the National Association of Insurance  
7 Commissioners;

8 (21) "credit tenant loan" means a mortgage loan that is made primarily  
9 in reliance on the credit standing of a major tenant and that is structured with an  
10 assignment of the rental payments to the lender with real estate pledged as collateral in  
11 the form of a first lien;

12 (22) "derivative instrument" does not include an investment authorized  
13 by AS 21.23.100 - 21.23.160 and 21.23.180; "derivative instrument" means

14 (A) an agreement, an option, an instrument, or a series or  
15 combination of agreements, options, and instruments

16 (i) to make or take delivery of, or assume or relinquish,  
17 a specified amount of one or more underlying interests, or to make a  
18 cash settlement in lieu of them; or

19 (ii) that has a price, performance, value, or cash flow  
20 based primarily on the actual or expected price, level, performance,  
21 value, or cash flow of one or more underlying interests; or

22 (B) an option, warrant used in a hedging transaction and not  
23 attached to another financial instrument, cap, floor, collar, swap, forward,  
24 future and any other agreement, option, or substantially similar instrument or  
25 any series or combination of options, warrants used in hedging transactions  
26 and not attached to another financial instrument, caps, floors, collars, swaps,  
27 forwards, futures, or other agreements, options, or substantially similar  
28 instruments, and any agreement, option, or instrument permitted under  
29 regulations adopted by the director;

30 (23) "derivative transaction" means a transaction involving the use of a  
31 derivative instrument;

1 (24) "direct" or "directly," when used in connection with an obligation,  
 2 means that the designated obligor is primarily liable on the instrument representing the  
 3 obligation;

4 (25) "dollar roll transaction" means two simultaneous transactions with  
 5 different settlement dates not more than 96 days apart, in which, in the transaction  
 6 with the earlier settlement date, an insurer sells to a business entity, and, in the later  
 7 transaction, the insurer is obligated to purchase from the same business entity  
 8 substantially similar securities of the following types:

9 (A) asset-backed securities issued, assumed, or guaranteed by  
 10 the Government National Mortgage Association, the Federal National  
 11 Mortgage Association, or the Federal Home Loan Mortgage Corporation, or  
 12 their respective successors;

13 (B) other asset-backed securities referred to in 15 U.S.C. 77r-1  
 14 (Secondary Mortgage Market Enhancement Act of 1984);

15 (26) "domestic jurisdiction" means the United States, a state, Canada, a  
 16 province of Canada, or a political subdivision of the United States, a state, Canada, or  
 17 a province of Canada;

18 (27) "equity interest" means any of the following that are not rated  
 19 credit instruments:

20 (A) common stock;

21 (B) preferred stock;

22 (C) a trust certificate;

23 (D) an equity investment in an investment company other than  
 24 a money market mutual fund or a class one bond mutual fund;

25 (E) an investment in a common trust fund of a bank regulated  
 26 by a federal or state agency;

27 (F) an ownership interest in minerals, oil, or gas, the rights to  
 28 which have been separated from the underlying fee interest in the real estate  
 29 where the minerals, oil, or gas are located;

30 (G) an instrument that is mandatorily, or at the option of the  
 31 issuer, convertible to equity;

1 (H) a limited partnership interest and a general partnership  
2 interest authorized under AS 21.23.040(a)(4);

3 (I) a member interest in a limited liability company;

4 (J) a warrant or other right to acquire an equity interest that is  
5 created by the person that owns or would issue the equity to be acquired;

6 (K) an instrument that would be a rated credit instrument  
7 except for the definition of "rated credit instrument" in this section;

8 (28) "equivalent securities" means

9 (A) in a securities lending transaction, securities that are  
10 identical to the loaned securities in all features including the amount of the  
11 loaned securities, except as to certificate numbers if the securities are held in  
12 physical form; however, if a different security is exchanged for a loaned  
13 security by recapitalization, merger, consolidation, or other corporate action,  
14 the different security shall be considered to be the loaned security;

15 (B) in a repurchase transaction, securities that are identical to  
16 the purchased securities in all features including the amount of the purchased  
17 securities, except as to the certificate numbers if the securities are held in  
18 physical form; or

19 (C) in a reverse repurchase transaction, securities that are  
20 identical to the sold securities in all features including the amount of the sold  
21 securities, except as to the certificate numbers if the securities are held in  
22 physical form;

23 (29) "floor" means an agreement obligating the seller to make  
24 payments to the buyer in which each payment is based on the amount by which a  
25 predetermined number, sometimes called the floor rate or price, exceeds a reference  
26 price, level, performance, or value of one or more underlying interests;

27 (30) "foreign currency" means a currency other than that of a domestic  
28 jurisdiction;

29 (31) "foreign investment" means an investment in a foreign  
30 jurisdiction or an investment in a person, real estate, or asset domiciled in a foreign  
31 jurisdiction that is substantially of the same type as those eligible for investment under

1 this chapter, other than under AS 21.23.160; an investment is not foreign if the issuing  
 2 person, qualified primary credit source, or qualified guarantor is a domestic  
 3 jurisdiction or a person domiciled in a domestic jurisdiction, unless

4 (A) the issuing person is a shell business entity; and

5 (B) the investment is not assumed, accepted, guaranteed,  
 6 insured, or otherwise backed by a domestic jurisdiction or a person that is not a  
 7 shell business entity domiciled in a domestic jurisdiction;

8 (32) "foreign jurisdiction" means a jurisdiction other than a domestic  
 9 jurisdiction;

10 (33) "forward" means an agreement, other than a future, to make or  
 11 take delivery of or effect a cash settlement based on the actual or expected price, level,  
 12 performance, or value of one or more underlying interests;

13 (34) "future" means an agreement, traded on a qualified exchange or  
 14 qualified foreign exchange, to make or take delivery of or effect a cash settlement  
 15 based on the actual or expected price, level, performance, or value of one or more  
 16 underlying interests;

17 (35) "government money market mutual fund" means a money market  
 18 mutual fund that, at all times,

19 (A) invests only in obligations issued, guaranteed, or insured  
 20 by the government of the United States, or in collateralized repurchase  
 21 agreements composed of these obligations; and

22 (B) qualifies for investment without a reserve under the  
 23 purposes and procedures manual of the securities valuation office;

24 (36) "government-sponsored enterprise" means a

25 (A) governmental agency; or

26 (B) corporation, limited liability company, association,  
 27 partnership, joint stock company, joint venture, trust, or other entity or  
 28 instrumentality organized under the laws of a domestic jurisdiction to  
 29 accomplish a public policy or other governmental purpose;

30 (37) "guaranteed," when used in connection with an obligation  
 31 acquired under this chapter, means that the guarantor has agreed

1 (A) to perform or insure the obligation of the obligor or  
2 purchase the obligation; or

3 (B) to be unconditionally obligated until the obligation is  
4 repaid to maintain in the obligor a minimum net worth, fixed charge coverage,  
5 stockholders' equity, or sufficient liquidity to enable the obligor to pay the  
6 obligation in full;

7 (38) "hedging transaction" means a derivative transaction that is  
8 entered into and maintained to reduce

9 (A) the risk of a change in the value, yield, price, cash flow, or  
10 quantity of assets or liabilities that the insurer has acquired or incurred or  
11 anticipates acquiring or incurring; or

12 (B) the currency exchange rate risk or the degree of exposure  
13 as to assets or liabilities that an insurer has acquired or incurred or anticipates  
14 acquiring or incurring;

15 (39) "high-grade investments" means credit instruments rated one or  
16 two by the securities valuation office;

17 (40) "income," as to a security, means interest, accrual of discount,  
18 dividend, or other distribution, including a right, tax or assessment credit, warrant, or  
19 distribution in kind;

20 (41) "income generation transaction" means a derivative transaction  
21 involving the writing of a covered call option, covered put option, covered cap, or  
22 covered floor that is intended to generate income or enhance return;

23 (42) "insurance future" means a future relating to an index or pool that  
24 is based on insurance-related items;

25 (43) "insurance futures options" means options on an insurance future;

26 (44) "insured" has the meaning given to "guaranteed";

27 (45) "investment company" has the meaning given in 15 U.S.C. 80a-1  
28 (Investment Company Act of 1940);

29 (46) "investment company series" means an investment portfolio of an  
30 investment company that is organized as a series company and to which assets of the  
31 investment company have been specifically allocated;

1 (47) "investment practices" means transactions of the types described  
2 in AS 21.23.150 or 21.23.170;

3 (48) "investment subsidiary" means a subsidiary of an insurer engaged  
4 or organized to engage exclusively in the ownership and management of assets  
5 authorized as investments for the insurer if the subsidiary agrees to limit its investment  
6 in any asset so that its investments do not cause the amount of the total investment of  
7 the insurer to exceed any of the investment limitations in this chapter or avoid any  
8 other provisions of this chapter applicable to the insurer; in this paragraph, the total  
9 investment of the insurer includes

10 (A) the direct investment by the insurer in an asset; and

11 (B) the insurer's proportionate share of an investment in an  
12 asset by an investment subsidiary of the insurer; for purposes of this  
13 subparagraph, the insurer's proportionate share is calculated by multiplying the  
14 amount of the subsidiary's investment by the percentage of the insurer's  
15 ownership interest in the subsidiary;

16 (49) "investment strategy" means the techniques and methods used by  
17 an insurer to meet its investment objectives, including active bond portfolio  
18 management, passive bond portfolio management, interest rate anticipation, growth  
19 investing, and value investing;

20 (50) "letter of credit" means a clean, irrevocable, and unconditional  
21 letter of credit issued or confirmed by and payable and presentable at a financial  
22 institution on the list of financial institutions meeting the standards for issuing letters  
23 of credit under the purposes and procedures manual of the securities valuation office;

24 (51) "life and health insurer" means an insurer that transacts life  
25 insurance, annuities, or health insurance;

26 (52) "limited liability company" means a company organized under  
27 AS 10.50;

28 (53) "lower-grade investments" means rated credit instruments rated  
29 four, five, or six by the securities valuation office;

30 (54) "market value" means, as to

31 (A) cash and letters of credit, the amount of cash or letters of

1 credit; and

2 (B) a security as of any date, the price for the security on that  
3 date obtained from a generally recognized source or the most recent quotation  
4 from a generally recognized source or, to the extent that a generally recognized  
5 source does not exist, the price for the security, as determined in good faith by  
6 the parties to a transaction, plus accrued but unpaid income on the security to  
7 the extent not included in the price as of that date;

8 (55) "medium-grade investments" means rated credit instruments rated  
9 three by the securities valuation office;

10 (56) "money market mutual fund" means a mutual fund that meets the  
11 conditions required under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of  
12 1940);

13 (57) "mortgage loan" means an obligation secured by a mortgage, deed  
14 of trust, trust deed, or other consensual lien on real estate;

15 (58) "multilateral development bank" means an international  
16 development organization of which the United States is a member;

17 (59) "mutual fund" means an investment company or, in the case of an  
18 investment company that is organized as a series company, an investment company  
19 series that is registered with the United States Securities and Exchange Commission  
20 under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940);

21 (60) "obligation" means a bond, note, debenture, trust certificate  
22 including an equipment certificate, production payment, negotiable bank certificate of  
23 deposit, bankers' acceptance, credit tenant loan, loan secured by financing net leases,  
24 and other evidence of indebtedness for the payment of money, or participation,  
25 certificate, or other evidence of an interest in any of the sources listed in this  
26 paragraph, whether constituting a general obligation of the issuer or payable only from  
27 certain revenue or a certain fund pledged or otherwise dedicated for payment;

28 (61) "option" means an agreement giving the buyer the right to buy or  
29 receive, commonly known as a "call option"; the right to sell or deliver, commonly  
30 known as a "put option"; or the right to enter into, extend, or terminate or effect a cash  
31 settlement based on the actual or expected price, level, performance, or value of one or

1 more underlying interests;

2 (62) "person" means an individual, a business entity, a multilateral  
3 development bank, or a governmental or quasi-governmental body, including a  
4 political subdivision or a government-sponsored enterprise;

5 (63) "potential exposure" means the amount determined in accordance  
6 with the annual statement instructions of the National Association of Insurance  
7 Commissioners;

8 (64) "preferred stock" means preferred, preference, or guaranteed stock  
9 of a business entity authorized to issue the stock that has a preference in liquidation  
10 over the common stock of the business entity;

11 (65) "property and casualty insurer" means an insurer that transacts  
12 property insurance, casualty insurance, surety insurance, marine or wet marine and  
13 transportation insurance, or mortgage guaranty insurance;

14 (66) "qualified bank" means

15 (A) a national bank, a state bank, or a trust company that, at all  
16 times, is not less than adequately capitalized as determined by standards  
17 adopted by United States banking regulators and that is either regulated by  
18 state banking laws or is a member of the Federal Reserve System; or

19 (B) a bank or trust company incorporated or organized under  
20 the laws of a country other than the United States that is regulated as a bank or  
21 trust company by that country's government or an agency of that country's  
22 government and that, at all times, is no less than adequately capitalized as  
23 determined by the standards adopted by international banking authorities;

24 (67) "qualified business entity" means a business entity that is

25 (A) an issuer of obligations or preferred stock that is rated one  
26 or two by the securities valuation office or an issuer of obligations, preferred  
27 stock, or derivative instruments that are rated the equivalent of one or two by  
28 the securities valuation office or by a nationally recognized statistical rating  
29 organization recognized by the securities valuation office; or

30 (B) a primary dealer in United States government securities,  
31 recognized by the Federal Reserve Bank of New York;

1 (68) "qualified clearinghouse" means a clearinghouse for and subject  
 2 to the rules of a qualified exchange or a qualified foreign exchange that provides  
 3 clearing services, including acting as a counterparty to each of the parties to a  
 4 transaction in a manner that the parties no longer have credit risk as to each other;

5 (69) "qualified exchange" means

6 (A) a securities exchange registered as a national securities  
 7 exchange or a securities market regulated under 15 U.S.C. 78-78mm  
 8 (Securities Exchange Act of 1934);

9 (B) a board of trade or commodities exchange designated as a  
 10 contract market by the Commodity Futures Trading Commission or any  
 11 successor of that commission;

12 (C) private offerings, resales and trading through automated  
 13 linkages;

14 (D) a designated offshore securities market as defined in  
 15 17 C.F.R. 230.902(b); or

16 (E) a qualified foreign exchange;

17 (70) "qualified foreign exchange" means a foreign exchange, board of  
 18 trade, or contract market located outside the United States, its territories, or  
 19 possessions

20 (A) that has received regulatory comparability relief under  
 21 17 C.F.R. 30.10, Part 30, App. C;

22 (B) that is or whose members are subject to the jurisdiction of a  
 23 foreign futures authority that has received regulatory comparability relief under  
 24 17 C.F.R. 30.10, Part 30, App. C, as to futures transactions in the jurisdiction  
 25 where the exchange, board of trade, or contract market is located; or

26 (C) upon which foreign stock index futures contracts are listed  
 27 that are the subject of no-action relief issued by the Commodity Futures  
 28 Trading Commission's Office of General Counsel if an exchange, board of  
 29 trade, or contract market that qualifies as a qualified foreign exchange only  
 30 under this subparagraph shall only be a qualified foreign exchange as to  
 31 foreign stock index futures contracts that are the subject of no-action relief;

1 (71) "qualified guarantor" means a guarantor against which an insurer  
 2 has a direct claim for full and timely payment, evidenced by a contractual right for  
 3 which an enforcement action can be brought in a domestic jurisdiction;

4 (72) "qualified primary credit source" means the credit source to which  
 5 an insurer looks for payment as to an investment and against which an insurer has a  
 6 direct claim for full and timely payment, evidenced by a contractual right for which an  
 7 enforcement action can be brought in a domestic jurisdiction;

8 (73) "rated credit instrument"

9 (A) means a contractual right to receive cash or a credit  
 10 instrument from another entity and that

11 (i) is rated, required to be rated, or is exempt from  
 12 rating under the requirements of the purposes and procedures manual of  
 13 the securities valuation office;

14 (ii) in the case of an instrument with a maturity of 397  
 15 days or less, is issued, guaranteed, or insured by an entity that is rated  
 16 by, or another obligation of the entity is rated by, the securities  
 17 valuation office or by a nationally recognized statistical rating  
 18 organization recognized by the securities valuation office;

19 (iii) in the case of an instrument with a maturity of 90  
 20 days or less, is issued by a qualified bank;

21 (iv) is a share of a class one bond mutual fund; or

22 (v) is a share of a money market mutual fund;

23 (B) does not include

24 (i) an instrument that is mandatorily or at the option of  
 25 the issuer convertible to an equity interest; or

26 (ii) a security that has a par value and the terms of  
 27 which provide that the issuer's net obligation to repay all or part of the  
 28 security's par value is determined by reference to the performance of an  
 29 equity, a commodity, a foreign currency, or an index of equities,  
 30 commodities, foreign currencies, or combinations of equities,  
 31 commodities, or foreign currencies;

1 (74) "real estate" means

2 (A) real property;

3 (B) interests in real property, including leaseholds, minerals,  
4 and oil and gas that have not been separated from the underlying fee interest;

5 (C) improvements and fixtures located on or in real property;  
6 and

7 (D) the seller's equity in a contract providing for a deed of real  
8 estate; and

9 (E) as to a mortgage on a leasehold estate, the leasehold estate  
10 only if it has an unexpired term, including renewal options exercisable at the  
11 option of the lessee, extending beyond the scheduled maturity date of the  
12 obligation that is secured by the mortgage on the leasehold estate by a period  
13 equal to at least 20 percent of the original term of the obligation or 10 years,  
14 whichever is greater;

15 (75) "replication transaction" means a derivative transaction that is  
16 intended to replicate the performance of one or more assets that an insurer is  
17 authorized to acquire under this chapter; "replication transaction" does not include a  
18 derivative transaction that is entered into as a hedging transaction;

19 (76) "repurchase transaction" means a transaction in which an insurer  
20 purchases securities from a business entity that is obligated to repurchase the  
21 purchased securities or equivalent securities from the insurer at a specified price,  
22 either within a specified period of time or upon demand;

23 (77) "required liabilities" means total liabilities required to be reported  
24 on the financial statement of the insurer most recently required to be filed with the  
25 director;

26 (78) "residential mortgage loan" means a loan primarily secured by a  
27 mortgage on real estate improved with a one- to four-family residence;

28 (79) "reverse repurchase transaction" means a transaction in which an  
29 insurer sells securities to a business entity and is obligated to repurchase the sold  
30 securities or equivalent securities from the business entity at a specified price, either  
31 within a specified period of time or upon demand;

1 (80) "savings and loan" means an organization organized under the  
 2 laws of a state that has qualified for the insurance protection provided by the Federal  
 3 Deposit Insurance Corporation;

4 (81) "secured location" means the contiguous real estate owned by one  
 5 person;

6 (82) "securities lending transaction" means a transaction in which  
 7 securities are loaned by an insurer to a business entity that is obligated to return the  
 8 loaned securities or equivalent securities to the insurer, either within a specified period  
 9 of time or upon demand;

10 (83) "securities valuation office" means the organization designated by  
 11 the National Association of Insurance Commissioners to rate securities and to  
 12 determine the carrying or admitted asset value of obligations owned by an insurer;

13 (84) "series company" means an investment company that is organized  
 14 as a series company under 15 U.S.C. 80a-1 - a-64 (Investment Company Act of 1940);

15 (85) "shell business entity" means a business entity having no  
 16 economic substance except as a vehicle for owning interests in assets issued, owned,  
 17 or previously owned by a person domiciled in a foreign jurisdiction;

18 (86) "sinking fund stocks" means preferred stocks that

19 (A) are subject to a mandatory sinking fund or similar  
 20 arrangement that will provide for the redemption or open-market purchase of  
 21 the entire issue over a period not longer than 40 years after the date of  
 22 acquisition; and

23 (B) provide for mandatory sinking fund installments or open-  
 24 market purchases commencing not more than 10.5 years after the date of issue,  
 25 with the sinking fund installments providing for the purchase or redemption,  
 26 on a cumulative basis commencing 10 years after the date of issue, of at least  
 27 two and one-half percent a year of the original number of shares of that issue  
 28 of preferred stock;

29 (87) "special rated credit instrument" means a rated credit instrument  
 30 that is

31 (A) an instrument structured in a manner that, if it is held until

1 retired by or on behalf of the issuer, its rate of return, based on its purchase  
2 cost and any cash flow stream possible under the structure of the transaction,  
3 may become negative due to reasons other than the credit risk associated with  
4 the issuer of the instrument; however, a rated credit instrument is not a special  
5 rated credit instrument under this paragraph if it is

6 (i) a share in a class one bond mutual fund;

7 (ii) an instrument, other than an asset-backed security,  
8 with payments of par value fixed as to amount and timing, or callable  
9 but in any event payable only at par or greater, and interest or dividend  
10 cash flows that are based on either a fixed or variable rate determined  
11 by reference to a specified rate or index;

12 (iii) an instrument, other than an asset-backed security,  
13 that has a par value and is purchased at a price not greater than 110  
14 percent of par;

15 (iv) an instrument, including an asset-backed security,  
16 whose rate of return would become negative only as a result of a  
17 prepayment due to casualty, condemnation, or economic obsolescence  
18 of collateral or change of law;

19 (v) an asset-backed security that relies on collateral that  
20 meets the requirements of (ii) of this subparagraph, the par value of  
21 which collateral is not permitted to be paid sooner than one-half of the  
22 remaining term to maturity from the date of acquisition; is permitted to  
23 be paid before maturity only at a premium sufficient to provide a yield  
24 to maturity for the investment, considering the amount prepaid and  
25 reinvestment rates at the time of early repayment, at least equal to the  
26 yield to maturity of the initial investment; or is permitted to be paid  
27 before maturity at a premium at least equal to the yield of a treasury  
28 issue of comparable remaining life; or

29 (vi) an asset-backed security that relies on cash flows  
30 from assets that are not prepayable at any time at par, but is not  
31 otherwise governed by (v) of this subparagraph, if the asset-backed

1 security has a par value reflecting principal payments to be received if  
2 held until retired by or on behalf of the issuer and is purchased at a  
3 price not greater than 105 percent of the par amount;

4 (B) an asset-backed security that relies on cash flows from  
5 assets that are prepayable at par at any time, that does not make payments of  
6 par that are fixed as to amount and timing, and that has a negative rate of return  
7 at the time of acquisition if a prepayment threshold assumption is used with the  
8 prepayment threshold assumption defined as either

9 (i) two times the prepayment expectation reported by a  
10 recognized, publicly available source as being the median of  
11 expectations contributed by broker-dealers or other entities, except  
12 insurers, engaged in the business of selling or evaluating the securities  
13 or assets; the prepayment expectation used in this calculation is, at the  
14 insurer's election, the prepayment expectation for passthrough  
15 securities of the Federal National Mortgage Association, the Federal  
16 Home Loan Mortgage Corporation, or the Government National  
17 Mortgage Association, or for other assets of the same type as the assets  
18 that underlie the asset-backed security, and, in either case, must have a  
19 gross weighted average coupon comparable to the gross weighted  
20 average coupon of the assets that underlie the asset-backed security; or

21 (ii) another prepayment threshold assumption specified  
22 by the director by regulation;

23 (C) for purposes of (B) of this paragraph, if the asset-backed  
24 security is purchased in combination with one or more other asset-backed  
25 securities that are supported by identical underlying collateral, the insurer may  
26 calculate the rate of return for these specific combined asset-backed securities  
27 in combination if the insurer maintains documentation demonstrating that the  
28 securities were acquired in and continue to be held in combination;

29 (88) "state" means a state of the United States or a territory or insular  
30 possession subject to the jurisdiction of the United States, including the District of  
31 Columbia and the Commonwealth of Puerto Rico;

1 (89) "substantially similar securities" means securities that meet all  
 2 criteria for substantially similar specified in the accounting practices and procedures  
 3 manual of the National Association of Insurance Commissioners;

4 (90) "swap" means an agreement to exchange or to net payments at  
 5 one or more times based on the actual or expected price, level, performance, or value  
 6 of one or more underlying interests;

7 (91) "trust company" means a financial institution licensed as a trust  
 8 company

9 (A) that, at all times, is not less than adequately capitalized as  
 10 determined by standards adopted by United States banking regulators and that  
 11 is either regulated by state banking laws or is a member of the Federal Reserve  
 12 System; or

13 (B) incorporated or organized under the laws of a country other  
 14 than the United States that is regulated as a trust company by that country's  
 15 government or an agency of that country and that, at all times, is not less than  
 16 adequately capitalized as determined by the standards adopted by international  
 17 banking authorities;

18 (92) "underlying interest" means the assets, liabilities, other interests,  
 19 or a combination of assets, liabilities, or other interests underlying a derivative  
 20 instrument, including any one or more securities, currencies, rates, indices,  
 21 commodities, or derivative instruments;

22 (93) "unrestricted surplus" means the amount by which total admitted  
 23 assets exceed 125 percent of the insurer's required liabilities;

24 (94) "warrant" means an instrument that gives the holder the right to  
 25 purchase an underlying financial instrument at a given price and time or at a series of  
 26 prices and times outlined in the warrant agreement; "warrant" includes a warrant  
 27 issued alone or in connection with the sale of other securities, for example, as part of a  
 28 merger or recapitalization agreement or to facilitate divestiture of the securities of  
 29 another business entity.

30 \* **Sec. 11.** AS 21.24.030(a) is amended to read:

31 (a) All deposits required under AS 21.09.090 for authority to transact

1 insurance in this state shall consist of certificates of deposit [,] or any combination of  
 2 securities of the kinds described in AS 21.23.090 and 21.23.100 [AS 21.21.060,  
 3 21.21.080, AND 21.21.090].

4 \* **Sec. 12.** AS 21.33.037(b) is amended to read:

5 (b) This section does not apply to

6 (1) matters authorized to be done by the director;

7 (2) surplus lines insurance effected and written under AS 21.34;

8 (3) transactions for which a certificate of authority is not required  
 9 under this title;

10 (4) reinsurance;

11 (5) the property and operations of railroads or aircraft **primarily**  
 12 engaged in interstate or foreign commerce and wet marine and transportation  
 13 insurance;

14 (6) life insurance, health insurance, and annuity contracts when  
 15 solicited solely by mail or when not solicited, negotiated, or procured in this state;

16 (7) transactions subsequent to issuance of a policy not covering a  
 17 subject resident, located, or to be performed in this state at time of issuance and  
 18 lawfully solicited, written, or delivered outside this state.

19 \* **Sec. 13.** AS 21.33.055(c) is amended to read:

20 (c) This section does not apply to insurance of risks of the state **or** [,] a  
 21 political subdivision of the state, or to insurance of aircraft **primarily** [REGULARLY]  
 22 engaged in interstate or foreign commerce.

23 \* **Sec. 14.** AS 21.33.061(g) is amended to read:

24 (g) This section does not apply to insurance of risks of the state **or** [,] a  
 25 political subdivision of the state, **to** insurance of aircraft **primarily** [REGULARLY]  
 26 engaged in interstate or foreign commerce, to life insurance, **to** health insurance, or **to**  
 27 annuity contracts.

28 \* **Sec. 15.** AS 21.34.180(a) is amended to read:

29 (a) Gross premiums charged, less any return premium, for surplus lines  
 30 insurance are subject to a premium receipts tax as outlined in AS 21.09.210, which  
 31 shall be collected by the surplus lines broker as specified by the director, in addition to

1 the full amount of the gross premium charged by the insurer for the insurance. The tax  
 2 on any portion of the premium unearned at termination of insurance having been  
 3 credited by the state to the surplus lines broker shall be returned to the policy holder  
 4 directly by the surplus lines broker or through the producing broker, if any. The  
 5 surplus lines broker may not absorb the tax or any part of it, and may not rebate for  
 6 any reason the tax or any part of it. **However, if, under AS 21.09.210, an admitted**  
 7 **insurer is required to collect and pay premium tax on a portion of a subscription**  
 8 **policy, the surplus lines broker is not required to collect any amount that would**  
 9 **constitute double taxation of that portion of the insurance.**

10 \* **Sec. 16.** AS 21.34.180(d) is amended to read:

11 (d) This section does not apply to insurance of risks of state government or its  
 12 political subdivision, to an agency of state government or its political subdivision, or  
 13 to insurance of aircraft **primarily** [REGULARLY] engaged in interstate or foreign  
 14 commerce.

15 \* **Sec. 17.** AS 21.36.320(d) is amended to read:

16 (d) **The** [IN ADDITION TO AN ORDER ISSUED UNDER (c) OF THIS SECTION,  
 17 THE] director may, after a hearing, order restitution, assess a penalty of not more than \$2,500  
 18 for each violation or \$25,000 for engaging in a general business practice in violation of this  
 19 chapter.

20 \* **Sec. 18.** AS 21.42.020(d) is amended to read:

21 (d) "Insurable interest," with reference to **life, annuity, or health**  
 22 [PERSONAL] insurance, includes only the following interests:

23 (1) in the case of persons related closely by blood or by law, a  
 24 substantial interest engendered by love and affection;

25 (2) in the case of persons other than those described in (1) of this  
 26 subsection, a lawful and substantial economic interest in having the life, health, or  
 27 bodily safety of the person insured continue, as distinguished from an interest **that**  
 28 [WHICH] would arise only by, or would be enhanced in value by, the death,  
 29 disablement, or injury of the individual insured;

30 (3) an individual party to a contract or option for the purchase or sale  
 31 of an interest in a business partnership or firm, or of shares of stock of a closed

1 corporation or of an interest in the shares, has an insurable interest in the life of each  
 2 individual party to the contract for the purposes of the contract only, in addition to an  
 3 insurable interest that may otherwise exist as to the life of the individual.

4 \* **Sec. 19.** AS 21.42 is amended by adding a new section to read:

5 **Sec. 21.42.363. Eye care under health insurance.** A policy, contract, or  
 6 prepaid plan for individual or group health insurance issued or delivered in the state  
 7 that provides reimbursement for a service within the lawful scope of practice of an  
 8 optometrist licensed under AS 08.72 must provide for reimbursement to a person  
 9 covered under the policy, contract, or plan who had the service performed by an  
 10 optometrist.

11 \* **Sec. 20.** AS 21.42.365(b) is amended to read:

12 (b) The benefits described in (a) of this section shall be adjusted January 1,  
 13 1999, by the director and every three years thereafter to correspond with the change in  
 14 the medical care component of the consumer price index for all urban consumers for  
 15 the Anchorage Metropolitan Area compiled by the Bureau of Labor Statistics, United  
 16 States Department of Labor. [THE BASE YEAR FOR THE FIRST ADJUSTMENT  
 17 SHALL BE CALENDAR YEAR 1996.]

18 \* **Sec. 21.** AS 21.42.390(b) is repealed and reenacted to read:

19 (b) A health care insurer shall provide benefits of not less than \$1,500 for a  
 20 covered person in a year for the cost of diabetes outpatient self-management training  
 21 or education under (a) of this section.

22 \* **Sec. 22.** AS 21.42.500(5) is amended to read:

23 (5) "health care insurance plan" has the meaning given in  
 24 AS 21.54.500; **"health care insurance plan" does not include short-term limited-**  
 25 **duration insurance offered to individuals in the individual market;**

26 \* **Sec. 23.** AS 21.42.500 is amended by adding a new paragraph to read:

27 (8) "individual market" has the meaning given in AS 21.51.500;

28 \* **Sec. 24.** AS 21.51.090 is amended to read:

29 **Sec. 21.51.090. Claim forms.** There shall be a provision as follows:

30 "Claim Forms: The insurer, **within 10 working days after** [UPON]  
 31 receipt of a notice of claim, will furnish to the claimant forms **that**

1 [WHICH] are usually furnished by it for filing proofs of loss. If the  
 2 forms are not furnished within **10** [15] days after the giving of notice,  
 3 the claimant shall be considered to have complied with the  
 4 requirements of this policy as to proof of loss upon submitting, within  
 5 the time fixed in the policy for filing proofs of loss, written proof  
 6 covering the occurrence, the character, and the extent of the loss for  
 7 which claim is made."

8 \* **Sec. 25.** AS 21.51.110 is amended to read:

9 **Sec. 21.51.110. Time of payment of claims.** There shall be a provision as  
 10 follows:

11 "Time of Payment of Claims: Indemnities payable under this policy for  
 12 a loss other than loss for which this policy provides a periodic payment  
 13 [,] will be paid **within 30 days after** [IMMEDIATELY UPON] receipt  
 14 of due written proof of the loss. Subject to due written proof of loss, all  
 15 accrued indemnities for loss for which this policy provides periodic  
 16 payment will be paid (insert period for payment, which must not be less  
 17 frequently than monthly) and any balance remaining unpaid upon the  
 18 termination of liability will be paid **beginning within 30 days after**  
 19 [IMMEDIATELY UPON] receipt of due written proof."

20 \* **Sec. 26.** AS 21.54.130(c) is amended to read:

21 (c) A health care insurer may discontinue offering and renewing all health care  
 22 insurance plans in the **small group market, large group market, or both,** [GROUP  
 23 MARKET] as permitted by this title if the insurer

24 (1) provides written notice of the decision to discontinue coverage to  
 25 all affected plan sponsors, participants, and beneficiaries and to the insurance  
 26 regulatory official in each state in which an affected covered employee or dependent is  
 27 known to reside; notice required under this paragraph must be given at least 180 days  
 28 before discontinuation of the plans;

29 (2) provides written notice of the decision to discontinue coverage to  
 30 the director and to the insurance regulatory official in each state in which the insurer is  
 31 licensed at least 30 days before the notice is given to the affected plan sponsors,

1 participants, and beneficiaries as described under (1) of this subsection; and

2 (3) does not issue a health care insurance plan in the group market in  
3 this state for five years from the date the last group health care insurance plan was  
4 discontinued.

5 \* **Sec. 27.** AS 21.56.120(c) is amended to read:

6 (c) A small employer insurer shall

7 (1) maintain at its principal place of business a complete and detailed  
8 description of its rating practices and renewal underwriting practices, including  
9 information and documentation that demonstrate that its rating methods and practices  
10 are based upon commonly accepted actuarial assumptions and are in accordance with  
11 sound actuarial principles;

12 (2) file with the director annually, on or before March 15, an actuarial  
13 certification certifying that the insurer is in compliance with this chapter **and**  
14 **AS 21.54.100 - 21.54.500** and that the rating methods of the small employer insurer  
15 are actuarially sound; the certification shall be in a form and manner, and must contain  
16 information, as specified by the director; a copy of the certification shall be retained  
17 by the small employer insurer at its principal place of business;

18 (3) make the information and documentation described in (1) of this  
19 subsection available to the director upon request; the information is confidential and  
20 not subject to disclosure, except

21 (A) as agreed to by the small employer insurer;

22 (B) as ordered by a court of competent jurisdiction; or

23 (C) the director may use the information or other discovered  
24 information in a judicial or administrative proceeding.

25 \* **Sec. 28.** AS 21.56.140(c) is amended to read:

26 (c) A small employer insurer may not increase a requirement for minimum  
27 employee participation or for minimum employer contribution applicable to a small  
28 employer at any time after the small employer has been accepted for coverage, except  
29 that a small employer insurer may vary application of minimum participation and  
30 employer contribution requirements by the size of the small employer group. In  
31 applying minimum employee participation requirements, a small employer insurer

1 may not consider employees or dependents who have [SIMILAR] existing creditable  
 2 coverage in determining whether the minimum employee participation level is met.

3 \* **Sec. 29.** AS 21.57.055(a) is amended to read:

4 (a) Before a debtor elects to purchase consumer credit insurance in connection  
 5 with a credit transaction, the insurer shall disclose the following in writing to the  
 6 debtor:

7 (1) the purchase of consumer credit insurance is optional and not a  
 8 condition of obtaining credit approval;

9 (2) if more than one kind of consumer credit insurance is being made  
 10 available to the debtor, whether the debtor can purchase the insurance separately or the  
 11 multiple coverage only as a package;

12 (3) the conditions of eligibility;

13 (4) if the debtor has other insurance that covers the risk, the debtor  
 14 may not want or need credit insurance;

15 (5) if the creditor requires [CONSUMER CREDIT] insurance as  
 16 additional security for a debt, the debtor has the option of furnishing the required  
 17 amount of insurance through existing policies owned or procured by the debtor or of  
 18 procuring and furnishing the required insurance through an insurer authorized to  
 19 transact insurance business in this state;

20 (6) the effective date of the coverage;

21 (7) the debtor may cancel the coverage within the first 30 days after  
 22 receiving the individual policy or group certificate and have a premium paid by the  
 23 debtor refunded or credited; thereafter, the debtor may cancel the policy at any time  
 24 during the term of the loan and receive a refund of unearned premium;

25 (8) a brief description of the coverage, including

26 (A) the amount;

27 (B) the term;

28 (C) any exceptions, limitations, or exclusions;

29 (D) the insured event;

30 (E) any waiting or elimination period;

31 (F) any deductible;

1 (G) any applicable waiver of premium provision;

2 (H) to whom the benefits would be paid; and

3 (I) the premium rate for a coverage or for multiple coverage in  
4 a package;

5 (9) if the premium or insurance charge is financed, it is subject to  
6 finance charges at the rate applicable to the credit transaction or at another specified  
7 rate; and

8 (10) whether or not the benefits provided are sufficient to pay off the  
9 debt **existing on the date of death, disability, or unemployment** [IN FULL,  
10 INCLUDING FINANCE CHARGES UNEARNED AT THE TIME OF THE  
11 CLAIM].

12 \* **Sec. 30.** AS 21.57.060(b) is amended to read:

13 (b) The individual policy or group certificate must, in addition to other  
14 requirements of law, set out

15 (1) the name and home office address of the insurer;

16 (2) the name of the debtor;

17 (3) the premium to be paid by the debtor disclosed separately for each  
18 kind of coverage or for all coverage in a package, except that, for open-ended loans,  
19 the premium rate and the basis of premium calculation must be specified;

20 (4) a full description of the coverage, including the amount, the term,  
21 and any exceptions, limitations, or exclusions;

22 (5) a statement that the benefits shall be paid to the creditor to reduce  
23 or extinguish the unpaid debt and that, whenever the amount of insurance benefit  
24 exceeds the unpaid debt, the excess is payable to the debtor, a beneficiary other than  
25 the creditor named by the debtor, or the debtor's estate;

26 (6) an explanation of how refunds are calculated in the event of policy  
27 termination; and

28 (7) if the benefit is not adequate to completely pay off the debt existing  
29 on the date of death, [OR] disability, **or unemployment**, a statement to that effect on  
30 the face of the individual policy or group certificate in not smaller than 10 point, bold  
31 face type.

1 \* **Sec. 31.** AS 21.66.380(b) is amended to read:

2 (b) The statement and justification provided for in this section shall be open to  
3 public inspection; **however, information that can be used to identify the**  
4 **experience of a particular title insurance limited producer is confidential.**

5 \* **Sec. 32.** AS 21.69.390(d) is amended to read:

6 (d) To meet the requirements of (a) of this section, a domestic insurer shall  
7 keep at its principal place of business in the state the following records of assets,  
8 transactions, and affairs:

9 (1) a general ledger;

10 (2) copies of reports prepared to comply with AS 21.09.200 -  
11 21.09.210;

12 (3) if prepared in the normal course of business, financial statements  
13 prepared under generally accepted accounting principles on which a licensed certified  
14 public accountant has expressed an opinion;

15 (4) filings made by a domestic insurer or affiliates of the domestic  
16 insurer with a government agency with which a domestic insurer or affiliates of the  
17 domestic insurer's securities may be registered;

18 (5) a state certificate of authority;

19 (6) filings made under **AS 21.23** [AS 21.21];

20 (7) original policy and claim files for insurance of property or a risk  
21 resident or located in the state;

22 (8) a corporate minutes book;

23 (9) articles of incorporation;

24 (10) corporate bylaws;

25 (11) contracts; and

26 (12) other records required by the director by regulation.

27 \* **Sec. 33.** AS 21.69.530(b) is amended to read:

28 (b) The deficiency may be made good in cash or in assets eligible under  
29 **AS 21.23** [AS 21.21] for the investment of the insurer's funds; or if a stock insurer, by  
30 reduction of the insurer's capital to an amount not below the minimum required for the  
31 kinds of insurance thereafter to be transacted; or if a mutual insurer, by amendment of

1 its certificate of authority to cover only the kind or kinds of insurance thereafter for  
2 which the insurer has sufficient surplus under this title.

3 \* **Sec. 34.** AS 21.75.080(b)(5) is amended to read:

4 (5) the assets of the reciprocal insurer and its subscribers shall be  
5 invested under **AS 21.23** [AS 21.21]; investment guidelines shall be approved by the  
6 advisory committee and shall be properly accounted for on the financial records of the  
7 reciprocal insurer as being held for or on behalf of the subscribers; the cash assets of  
8 the reciprocal insurer and its subscribers not otherwise invested in short-term  
9 securities, covering policy obligations arising out of policies issued, or issued for  
10 delivery in the United States shall be held in one or more appropriately identified  
11 accounts in banks that are members of the Federal Reserve System; these accounts  
12 shall be drawn on by the attorney-in-fact or by employees or representatives of the  
13 reciprocal insurer authorized by the attorney-in-fact for payments on behalf of the  
14 reciprocal insurer;

15 \* **Sec. 35.** AS 21.84.335(b) is amended to read:

16 (b) In addition to the provisions of this chapter, the following provisions of  
17 this title apply to fraternal benefit societies to the extent applicable and not in conflict  
18 with the express provisions of this chapter and the reasonable implications of this  
19 chapter:

- 20 (1) AS 21.03;  
21 (2) AS 21.06;  
22 (3) AS 21.09.050;  
23 (4) AS 21.09.100;  
24 (5) AS 21.09.200;  
25 (6) AS 21.09.205;  
26 (7) AS 21.18;  
27 (8) **AS 21.23** [AS 21.21];  
28 (9) AS 21.27;  
29 (10) AS 21.33;  
30 (11) AS 21.36;  
31 (12) AS 21.42.290;

- 1 (13) AS 21.42.355;  
 2 (14) AS 21.53;  
 3 (15) AS 21.54;  
 4 (16) AS 21.56;  
 5 (17) AS 21.69.370;  
 6 (18) AS 21.69.640;  
 7 (19) AS 21.78; and  
 8 (20) AS 21.89.060.

9 \* **Sec. 36.** AS 21.86.130 is amended to read:

10 **Sec. 21.86.130. Investments.** With the exception of investments made under  
 11 AS 21.86.030, a health maintenance organization's money may only be invested as  
 12 allowed by **AS 21.23** [AS 21.21] for the investment of legal reserves of a life insurer.

13 \* **Sec. 37.** AS 21.87.190(b) is amended to read:

14 (b) The service corporation shall, before use, file with the director (1) a  
 15 schedule of subscription rates, fees, or payments of any kind to be charged  
 16 subscribers; (2) every rating manual, schedule, plan, rule, or formula; and (3)  
 17 [BEFORE USE,] any modification to the rating manual, schedule, plan, rule, or  
 18 formula. Each filing must state the effective date and must provide a comprehensive  
 19 description of the coverage. **Detailed rate justification, including rate formulas, is**  
 20 **confidential** [THE DIRECTOR MAY WITHHOLD THE RATING FORMULA  
 21 FROM PUBLIC INSPECTION FOR AS LONG AS THE DIRECTOR  
 22 DETERMINES THAT WITHHOLDING THE RATING FORMULA IS  
 23 NECESSARY TO PROTECT THE SERVICE CORPORATION AGAINST  
 24 UNWARRANTED INJURY OR IS IN THE PUBLIC INTEREST].

25 \* **Sec. 38.** AS 21.87.220(a) is amended to read:

26 (a) A service corporation shall invest and have invested its funds in the  
 27 following investments only:

- 28 (1) cash on deposit or in savings accounts in banks or trust companies  
 29 in this state;  
 30 (2) deposits in or shares of the savings and loan associations that are  
 31 insured by an instrumentality of the United States government, and not in excess of the

1 amount of the insurance in any one [SUCH] institution;

2 (3) public obligations, as provided under AS 21.23 [AS 21.21];

3 (4) corporate obligations, as provided under AS 21.23 [AS 21.21]; and

4 (5) real estate for use as a home office, at a cost not exceeding 10  
5 percent [PER CENT] of the corporation's assets at the time of investment, unless a  
6 larger amount has been approved by the director.

7 \* **Sec. 39.** AS 21.87.220(b) is amended to read:

8 (b) The following sections apply to the investments of service corporations, to  
9 the extent applicable, and, for the purposes of the application, a service corporation  
10 shall be considered to be an insurer: AS 21.23.020 - 21.23.090 [AS 21.21.020 -  
11 21.21.050, 21.21.290, AND 21.21.300].

12 \* **Sec. 40.** AS 21.18.120, 21.18.130, 21.18.140, 21.18.150; AS 21.21.010, 21.21.020,  
13 21.21.030, 21.21.040, 21.21.050, 21.21.060, 21.21.070, 21.21.080, 21.21.090, 21.21.100,  
14 21.21.110, 21.21.120, 21.21.130, 21.21.140, 21.21.150, 21.21.160, 21.21.170, 21.21.180,  
15 21.21.190, 21.21.200, 21.21.210, 21.21.220, 21.21.225, 21.21.230, 21.21.240, 21.21.245,  
16 21.21.250, 21.21.255, 21.21.260, 21.21.270, 21.21.280, 21.21.290, 21.21.300, 21.21.310,  
17 21.21.321, 21.21.330, 21.21.350, 21.21.355, 21.21.360, 21.21.370, 21.21.380, 21.21.390,  
18 21.21.400, 21.21.410, 21.21.600; AS 21.36.320(c), 21.36.320(f); AS 21.87.340(7),  
19 21.87.340(8), 21.87.340(19); and AS 21.89.040 are repealed.

20 \* **Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to  
21 read:

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

26 \* **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to  
27 read:

28 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the  
29 catchline of AS 21.42.020 from "Insurable interest: personal insurance" to "Insurable interest:  
30 life, annuity, or health."

31 \* **Sec. 43.** Sections 12 - 16 of this Act take effect January 1, 2002.

1     \* **Sec. 44.** Except as provided in sec. 43 of this Act, this Act takes effect immediately under  
2     AS 01.10.070(c).