

HOUSE CS FOR CS FOR SENATE BILL NO. 203(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/22/04

Referred: Finance

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to administrative hearings, to hearing officers, and to administrative
2 law judges; establishing the office of administrative hearings and relating to that office;
3 and providing for an effective date."

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

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

7 PURPOSE AND INTENT. The purpose of this Act is to increase the separation
8 between the adjudicatory functions of executive branch agencies and the agencies'
9 investigatory, prosecutory, and policy-making functions. The legislature intends by this Act
10 to

11 (1) provide for the delivery of high quality adjudication services in a timely,
12 efficient, and cost-effective manner;

13 (2) ensure respect for the privacy and dignity of the individuals whose cases
14 are being adjudicated and protect them from threats, intimidation, and harassment;

1 (3) foster open and clearly explained agency decisions and improve public
2 access to the process of administrative adjudication;

3 (4) guarantee protection of all parties' due process rights, increase the public
4 parties' perception of fairness in administrative adjudication, and foster acceptance of final
5 administrative decisions by the public and affected parties;

6 (5) protect the integrity of the process of administrative adjudication and
7 decisional independence of administrative adjudicators; and

8 (6) increase consistency in administrative procedures and decisions.

9 * **Sec. 2.** AS 44 is amended by adding a new chapter to read:

10 **Chapter 64. Hearing Officers and Office of Administrative Hearings.**

11 **Sec. 44.64.010. Office created.** (a) There is created in the Department of
12 Administration an independent office of administrative hearings under the direction of
13 the chief administrative law judge.

14 (b) The chief administrative law judge must

15 (1) be a resident of the state;

16 (2) have experience in administrative law;

17 (3) be licensed to practice law in this state and have been admitted to
18 practice law in this state for at least five years; and

19 (4) have experience representing clients in administrative or judicial
20 proceedings.

21 (c) The chief administrative law judge is appointed to a five-year term of
22 office by the governor and is subject to confirmation by the legislature. An individual
23 may serve not more than three full or partial terms as chief administrative law judge.
24 The governor may remove the chief administrative law judge from office only for
25 good cause. The basis for removal shall be stated in writing. A vacancy in the office
26 of chief administrative law judge shall be filled by the governor and the individual
27 appointed serves for the remainder of the term to which appointed.

28 (d) The chief administrative law judge shall receive a monthly salary that is
29 not less than Step A nor more than Step F, Range 27, of the salary schedule in
30 AS 39.27.011(a) for Juneau, Alaska. The chief administrative law judge is in the
31 partially exempt service.

1 **Sec. 44.64.020. Powers and duties of chief administrative law judge.** The
2 chief administrative law judge shall

3 (1) supervise the office;

4 (2) employ administrative staff, who shall be in the classified service;

5 (3) employ administrative law judges, who shall be in the partially
6 exempt service;

7 (4) preside over administrative hearings handled by the office or, based
8 upon the qualifications and expertise of the administrative law judges, assign
9 administrative law judges to preside over hearings, and protect, support, and enhance
10 the decisional independence of the administrative law judges;

11 (5) establish and implement performance standards, including
12 provision for timeliness, and peer review programs for administrative law judges
13 employed or retained by the office;

14 (6) make available and facilitate training and continuing education
15 programs and services in administrative procedure, administrative adjudication,
16 substantive law, alternate dispute resolution, and technical matters for administrative
17 law judges and other administrative adjudicators;

18 (7) survey administrative hearing participants and use other methods to
19 monitor the quality of administrative hearings held by the office and other state
20 agencies, and submit to the governor and the legislature on January 31 of each year the
21 results of the survey along with a report that includes a description of the activities of
22 the office and recommendations for statutory changes that may be needed in relation
23 to the administrative hearings held by the office or other state agencies;

24 (8) review and comment on regulations proposed by state agencies to
25 govern procedures in administrative hearings;

26 (9) enter into contracts as necessary to carry out the functions of the
27 office;

28 (10) annually prepare and submit to the commissioner of
29 administration a budget for the office for the next fiscal year that shall include and
30 separately identify funding for training and continuing education; a copy of the budget
31 submitted to the commissioner under this paragraph shall also be submitted to the

1 Finance Committee of each house of the legislature; and

2 (11) after consulting with affected agencies, adopt regulations under
3 AS 44.62 (Administrative Procedure Act) to carry out the duties of the office and
4 implement this chapter.

5 * **Sec. 3.** AS 44.64 is amended by adding new sections to read:

6 **Sec. 44.64.030. Jurisdiction of the office.** (a) The office shall conduct all
7 adjudicative administrative hearings required under the following statutes or under
8 regulations adopted to implement the statutes:

- 9 (1) AS 04.11.510(b)(1) and (c) (alcoholic beverages license);
10 (2) AS 05.15 (charitable gaming);
11 (3) AS 05.20 (recreational devices);
12 (4) AS 05.90.001 (special racing events);
13 (5) AS 06 (banks and financial institutions);
14 (6) AS 08 (occupational licensing), other than AS 08.08 and
15 AS 08.62.046;
16 (7) AS 10.06 (Alaska Corporations Code);
17 (8) AS 10.13 (Alaska BIDCO Act);
18 (9) AS 10.25.375 (Electric and Telephone Cooperative Act);
19 (10) AS 10.50.408 (limited liability companies);
20 (11) AS 14.11.016 (education-related facility grants);
21 (12) AS 14.18 (discrimination in public education);
22 (13) AS 14.20.030 (teacher certificates);
23 (14) AS 14.48 (postsecondary educational institutions);
24 (15) AS 17.20 (Alaska Food, Drug, and Cosmetic Act), other than
25 AS 17.20.060 and 17.20.360;
26 (16) AS 18.18.030 (hospice licenses);
27 (17) AS 18.20 (hospitals and nursing facilities), other than
28 AS 18.20.180;
29 (18) AS 18.35.040 (tourist accommodations);
30 (19) AS 21.09, AS 21.22.190, AS 21.27, AS 21.34, AS 21.36,
31 AS 21.69, AS 21.86.200, AS 21.87, and AS 21.89 (insurance);

- 1 (20) AS 25.27 (child support enforcement);
 2 (21) AS 32.06 (Uniform Partnership Act);
 3 (22) AS 34.45 (unclaimed property);
 4 (23) AS 34.55.024 and 34.55.026 (Uniform Land Sales Practices Act);
 5 (24) AS 36.30 (State Procurement Code), other than
 6 AS 36.30.627(a)(2);
 7 (25) AS 38.05.065 (contracts for sale of state land);
 8 (26) AS 39.52 (Alaska Executive Branch Ethics Act);
 9 (27) AS 43.23 (permanent fund dividends);
 10 (28) AS 43.70 (Alaska Business License Act);
 11 (29) AS 44.50 (notaries public);
 12 (30) AS 44.77 (claims against the state);
 13 (31) AS 45.30.040 (mobile homes);
 14 (32) AS 45.55 (Alaska Securities Act);
 15 (33) AS 45.57 (Takeover Bid Disclosure Act);
 16 (34) AS 47.33 (assisted living homes);
 17 (35) AS 47.35 (child care);
 18 (36) AS 47.45 (longevity bonuses).

19 (b) An agency may request the office to conduct an administrative hearing or
 20 other proceeding of that agency or to conduct several administrative hearings or other
 21 proceedings under statutes not listed in (a) of this section. The office may provide the
 22 service after entering into a written agreement with the agency describing the services
 23 to be provided and providing for reimbursement by the agency to the office of the
 24 costs incurred by the office in providing the services.

25 (c) To the extent otherwise permitted by law, the agency may delegate to the
 26 administrative law judge assigned to conduct the hearing on behalf of the agency the
 27 authority to make a final agency decision in the matter. The final decision may be
 28 appealed to the superior court by any party.

29 (d) Nothing in this chapter may be construed to create a right to a hearing or to
 30 require a hearing that is not required under other law.

31 **Sec. 44.64.040. Administrative law judges.** (a) An administrative law judge

1 must be admitted to practice law in this state and must have been admitted to practice
 2 in this state for at least two years before being employed or retained with the office.
 3 The chief administrative law judge shall establish additional qualifications for
 4 administrative law judges employed or retained by the office and for those
 5 administrative law judges that may be assigned to particular types of cases.
 6 Notwithstanding AS 39.25.120(b), full-time administrative law judges employed by
 7 the office are subject to the personnel rules adopted under AS 39.25.150(7), (15), and
 8 (16).

9 (b) An administrative law judge employed or retained by the office may, in
 10 conducting an administrative hearing for an agency, exercise the powers authorized by
 11 law for exercise by that agency in the performance of its duties in connection with the
 12 hearing. An administrative law judge may

13 (1) engage in alternative dispute resolution under regulations adopted
 14 by the chief administrative law judge that is in addition to any alternate dispute
 15 resolution procedure used by an agency before the case is referred to the office;

16 (2) order a party, a party's attorney, or another authorized
 17 representative of a party to pay reasonable expenses, including attorney fees, incurred
 18 by another party as a result of actions done in bad faith or as a result of tactics used
 19 frivolously or solely intended to cause unnecessary delay;

20 (3) perform other necessary and appropriate acts in the performance of
 21 official duties.

22 (c) An administrative law judge employed by the office must devote full time
 23 to the duties of the office unless appointed to a position that is less than full-time. An
 24 administrative law judge employed by the office may not perform duties inconsistent
 25 with the duties and responsibilities of an administrative law judge.

26 (d) The office may enter into a contract with an individual who meets the
 27 qualifications established in (a) of this section to serve as an administrative law judge
 28 in a particular administrative hearing or in several hearings of the same type. The
 29 individual is subject to AS 39.52 (Alaska Executive Branch Ethics Act).
 30 Notwithstanding AS 36.30.015(d), the office may contract for or hire an
 31 administrative law judge without notifying or securing the approval of the Department

1 of Law.

2 **Sec. 44.64.050. Hearing officer conduct.** (a) An administrative law judge
3 employed full time by the office or a hearing officer employed full time by an agency
4 may not serve in any other judicial or quasi-judicial capacity or engage in the private
5 practice of law.

6 (b) The chief administrative law judge shall, subject to AS 39.52.920 and by
7 regulation, adopt a code of hearing officer conduct. The code shall apply to the chief
8 administrative law judge, administrative law judges of the office, and hearing officers
9 of each other agency.

10 (c) Except as provided in (e) of this section, the chief administrative law judge
11 shall receive and consider all complaints against administrative law judges or hearing
12 officers employed or retained by the office or another agency alleging violations of (a)
13 of this section or of the code of hearing officer conduct. The chief administrative law
14 judge shall deliver the complaint to the attorney general when the chief administrative
15 law judge determines that the conduct alleged, if true, would constitute a violation of

16 (1) subsection (a) of this section; or

17 (2) the code and would warrant disciplinary action under the
18 regulations adopted under (b) of this section.

19 (d) If the attorney general determines that a violation has occurred, the
20 attorney general shall submit written findings to the agency that employed or retained
21 the administrative law judge or hearing officer who is the subject of the complaint
22 together with recommendations for corrective or disciplinary action. If the
23 administrative law judge is employed or retained by the office, the chief administrative
24 law judge shall take appropriate corrective or disciplinary action.

25 (e) The attorney general shall, by regulation, establish procedures to
26 implement (d) of this section, including procedures for investigating and holding
27 hearings on complaints. The attorney general shall receive and consider any
28 complaint filed against the chief administrative law judge under this section, and may
29 investigate or hold a hearing on the complaint in compliance with the regulations
30 adopted under this subsection.

31 **Sec. 44.64.055. Reimbursement agreements.** The office may enter into

1 agreements for reimbursement for services related to an administrative hearing from a
 2 school district, municipality, or other governmental entity if the reimbursement is
 3 authorized by other law.

4 **Sec. 44.64.060. Procedure for hearings.** (a) The chief administrative law
 5 judge shall, by regulation, establish procedures for administrative hearings conducted
 6 by the office. Each administrative hearing under the jurisdiction of the office or that
 7 has been transferred to the office by an agency shall be conducted in accordance with
 8 statutes that apply to that hearing, including, if applicable, AS 44.62 (Administrative
 9 Procedure Act). In case of conflict between this section and another applicable statute
 10 establishing procedures for administrative hearings, the other statute prevails.
 11 However, to the extent regulations adopted by an agency for the conduct of an
 12 administrative hearing conflict with regulations adopted by the chief administrative
 13 law judge under this subsection, the regulations adopted by the chief administrative
 14 law judge control to the maximum extent possible without conflicting with applicable
 15 statutes.

16 (b) When an agency receives a request for a hearing that is subject to
 17 AS 44.64.030, the agency shall, within 10 days and in writing, deny the request for
 18 reasons provided by law or grant the request and refer the case to the office. The
 19 agency shall immediately give notice of the denial or referral to the requestors and the
 20 office. If the request is denied, the denial may be appealed to the superior court as
 21 provided by other law. If the request is granted, the agency shall, within 15 days after
 22 receiving the request, compile and transmit to the office a copy of the request for a
 23 hearing, the names, addresses, and telephone numbers of all parties and their
 24 representatives, and the agency's decision, if any, together with the record relied on to
 25 support the decision. Any information provided to the office that is confidential by
 26 law shall be identified by the agency as confidential and shall be kept confidential by
 27 the office.

28 (c) The agency may, with materials transmitted under (b) of this section,
 29 request the chief administrative law judge to permit the entity that will make the final
 30 decision to participate with the assigned administrative law judge in the conduct of the
 31 administrative hearing. The chief administrative law judge shall determine the degree

1 and manner of participation and may terminate that participation at any time.
 2 However, the entity that participates under this subsection may not serve as the
 3 administrative law judge or preside during the hearing and may not take action on
 4 behalf of the agency in the agency's capacity as a party to the proceedings.

5 (d) An administrative law judge employed or retained by the office shall,
 6 within 120 days after the date the agency received the request for a hearing, prepare a
 7 proposed decision, unless another time period is provided by law or agreed to by the
 8 parties and the chief administrative law judge. The administrative law judge shall
 9 immediately submit the proposed decision to the agency.

10 (e) A proposed decision in an administrative hearing shall be in a form that
 11 may be adopted as the final decision by the agency with authority to make the final
 12 decision. The proposed decision is a public record, except as otherwise provided by
 13 statute. A copy of the proposed decision shall be served by the office on each party in
 14 the case or on the attorneys representing those parties in the hearing. Unless the office
 15 has established a shorter time period or another statute has established a different time
 16 period, within 30 days after the proposed decision is served, a party may file with the
 17 agency a proposal for action under (1) - (5) of this subsection. The agency with
 18 authority to make a final decision in the case retains agency discretion in the final
 19 disposition of the case and shall, within 45 days after the date the proposed decision is
 20 served or at the next regularly scheduled meeting that occurs at least 45 days after the
 21 proposed decision is served, do one or more of the following:

22 (1) adopt the proposed decision as the final agency decision;

23 (2) return the case to the administrative law judge to take additional
 24 evidence or make additional findings or for other specific proceedings, in which case
 25 the administrative law judge shall complete the additional work and return the revised
 26 proposed decision to the agency within 45 days after the original decision was
 27 returned under this paragraph;

28 (3) exercise its discretion by revising the proposed enforcement action,
 29 determination of best interests, order, award, remedy, sanction, penalty, or other
 30 disposition of the case, and adopt the proposed decision as revised;

31 (4) in writing, reject, modify, or amend a factual finding in the

1 proposed decision by specifying the affected finding and identifying the testimony and
 2 other evidence relied on by the agency for the rejection, modification, or amendment
 3 of the finding, and issue a final agency decision;

4 (5) in writing, reject, modify, or amend an interpretation or application
 5 in the proposed decision of a statute or regulation directly governing the agency's
 6 actions by specifying the reasons for the rejection, modification, or amendment, and
 7 issue a final agency decision.

8 (f) If a final decision is not issued timely in accordance with (e) of this section,
 9 the administrative law judge's proposed decision is the final agency decision.

10 **Sec. 44.64.070. Disqualification of administrative law judge.** (a) The chief
 11 administrative law judge or an administrative law judge employed or retained by the
 12 office is disqualified from a case in which the administrative law judge cannot accord
 13 a fair and impartial hearing or for other reasons established in the code of hearing
 14 officer conduct.

15 (b) A party may request the disqualification of the chief administrative law
 16 judge or another administrative law judge by filing an affidavit, before the taking of
 17 evidence at a hearing, stating with particularity the grounds upon which it is claimed
 18 that a fair and impartial hearing cannot be accorded by that administrative law judge.
 19 Notwithstanding AS 44.62.450(c), upon receipt of the affidavit, the administrative law
 20 judge assigned to the administrative hearing shall make a determination. If the affiant
 21 objects to the decision, the matter shall be decided by the chief administrative law
 22 judge, whose decision is final, or if the hearing is assigned to the chief administrative
 23 law judge, by the attorney general, whose decision is final.

24 (c) In addition to disqualification of an administrative law judge under (a) and
 25 (b) of this section, each side is entitled to change the assigned administrative law judge
 26 once. Two or more parties aligned on the same side of an action shall be treated as
 27 one side for purposes of this subsection, but the chief administrative law judge may
 28 allow an additional change to a party whose interests are adverse to the interests of
 29 another party on the same side. A party wishing to exercise the right to change the
 30 administrative law judge shall give notice to the chief administrative law judge within
 31 five days after notice is given that the case has been assigned. A party waives the

1 right to a change in the assigned administrative law judge by participating before that
2 administrative law judge in any proceeding or conference involving the case.

3 **Sec. 44.64.080. Agency cooperation.** (a) All agencies shall cooperate with
4 the chief administrative law judge and with other administrative law judges of the
5 office in the matters involving the duties of the office.

6 (b) Except as provided under AS 44.64.070 or by regulation adopted under
7 this chapter, an agency may not select or reject a particular administrative law judge
8 for assignment to an administrative hearing.

9 (c) After an administrative hearing is referred by an agency to the office for
10 hearing, the agency may not take further adjudicatory action in the case, except as a
11 party litigant or to render a final decision as provided by law. This subsection does
12 not otherwise limit the agency's authority to take action affecting a party to the case.

13 **Sec. 44.64.090. Administrative hearing records.** (a) The office shall
14 acquire and organize statistical and other information relating to administrative
15 hearings of the office and of other agencies. The office shall acquire and organize
16 copies of proposed and final agency decisions in administrative hearings and copies of
17 court decisions resulting from those administrative hearings. The information and
18 decisions shall be made available to the public, agencies, and the legislature. The
19 office shall make final agency decisions reached after administrative hearings
20 available online through an electronic data base.

21 (b) This section does not apply to records that are confidential or privileged.

22 **Sec. 44.64.095. Federal requirements.** Federal requirements applicable to an
23 administrative hearing prevail to the extent they conflict with any provision of
24 AS 44.64.010 - 44.64.200.

25 **Sec. 44.64.200. Definitions.** In this chapter,

26 (1) "administrative hearing" means a quasi-judicial hearing before an
27 agency; it does not include an informal conference or review held by an agency before
28 a final decision is issued or a rate-making proceeding or other nonadjudicative public
29 hearing;

30 (2) "administrative law judge" means a hearing officer who is retained
31 or employed by the office;

1 (3) "agency" means an agency of the executive branch of state
 2 government, including an officer, a division, or another subunit of an agency, a board
 3 or commission, a public corporation, and the University of Alaska;

4 (4) "hearing officer" means an individual who presides over the
 5 conduct of an administrative hearing and who is retained or employed by an agency
 6 for that purpose;

7 (5) "office" means the office of administrative hearings established in
 8 AS 44.64.010.

9 * **Sec. 4.** AS 04.11.510(b) is amended to read:

10 (b) The board may review an application for the issuance, renewal, transfer of
 11 location, or transfer to another person of a license without affording the applicant
 12 notice or hearing, except

13 (1) if an application is denied, the notice of denial shall be furnished
 14 the applicant immediately in writing stating the reason for the denial in clear and
 15 concise language; the notice of denial must inform the applicant that the applicant is
 16 entitled to an informal conference with either the director or the board, and that, if not
 17 satisfied by the informal conference, the applicant is then entitled to a formal hearing
 18 **conducted by the office of administrative hearings (AS 44.64.010)** [BEFORE THE
 19 BOARD]; if the applicant requests a formal hearing, the **office of administrative**
 20 **hearings** [BOARD] shall adhere to AS 44.62.330 - 44.62.630 (Administrative
 21 Procedure Act); all interested persons may be heard at the hearing and unless waived
 22 by the applicant and the board, the formal hearing shall be held in the area for which
 23 the application is requested;

24 (2) the board may, on its own initiative or in response to an objection
 25 or protest, hold a hearing to ascertain the reaction of the public or a local governing
 26 body to an application if a hearing is not required under this subsection; the board
 27 shall send notice of a hearing conducted under this paragraph 20 days in advance of
 28 the hearing to each community council established within the municipality and to each
 29 nonprofit community organization entitled to notification under AS 04.11.310(b);

30 (3) if a petition containing the signatures of 35 percent of the adult
 31 residents having a permanent place of abode outside of but within two miles of an

1 incorporated city or an established village is filed with the board, the board shall hold
 2 a public hearing on the question of whether the issuance, renewal, or transfer of the
 3 license in the city or village would be in the public interest;

4 (4) if a protest to the issuance, renewal, transfer of location or transfer
 5 to another person of a license made by a local governing body is based on a question
 6 of law, the board shall hold a public hearing.

7 * **Sec. 5.** AS 05.20.080 is amended to read:

8 **Sec. 05.20.080. Application of Administrative Procedure Act.** The
 9 procedure for review of the orders or actions of the department, its agents or
 10 employees, is the same as that contained in AS 44.62 (Administrative Procedure Act).
 11 **Administrative hearings on contested cases shall be conducted by the office of**
 12 **administrative hearings (AS 44.64.010).**

13 * **Sec. 6.** AS 06.01.030(f) is amended to read:

14 (f) Hearings required or authorized under this title are not subject to
 15 AS 44.62.330 - 44.62.630, except as required by AS 44.62.560 and 44.62.570. The
 16 department shall adopt regulations, consistent with the provisions of this title,
 17 establishing procedures for hearings held under this section. **Administrative**
 18 **hearings on contested cases shall be conducted by the office of administrative**
 19 **hearings (AS 44.64.010).**

20 * **Sec. 7.** AS 08.01.075(c) is amended to read:

21 (c) A board may summarily suspend a licensee from the practice of the
 22 profession before a final hearing is held or during an appeal if the board finds that the
 23 licensee poses a clear and immediate danger to the public health and safety. A person
 24 is entitled to a hearing **conducted by the office of administrative hearings**
 25 **(AS 44.64.010)** [BEFORE THE BOARD] to appeal the summary suspension within
 26 seven days after the order of suspension is issued. A person may appeal an adverse
 27 decision of the board on an appeal of a summary suspension to a court of competent
 28 jurisdiction.

29 * **Sec. 8.** AS 08.01.087(b) is amended to read:

30 (b) If it appears to the commissioner that a person has engaged in or is about
 31 to engage in an act or practice in violation of a provision of this chapter or a regulation

1 adopted under it, or a provision of AS 43.70, or a provision of this title or regulation
 2 adopted under this title dealing with an occupation or board listed in AS 08.01.010, the
 3 commissioner may, if the commissioner considers it in the public interest, and after
 4 notification of a proposed order or action by telephone, telegraph, or facsimile to all
 5 board members, if a board regulates the act or practice involved, unless a majority of
 6 the members of the board object within 10 days,

7 (1) issue an order directing the person to stop the act or practice;
 8 however, reasonable notice of and an opportunity for a hearing must first be given to
 9 the person, except that the commissioner may issue a temporary order before a hearing
 10 is held; a temporary order remains in effect until a final order affirming, modifying, or
 11 reversing the temporary order is issued or until 15 days after the person receives the
 12 notice and has not requested a hearing by that time; a temporary order becomes final if
 13 the person to whom the notice is addressed does not request a hearing within 15 days
 14 after receiving the notice; the **office of administrative hearings (AS 44.64.010)**
 15 [COMMISSIONER OR THE COMMISSIONER'S DESIGNEE] shall **conduct** [BE
 16 THE HEARING OFFICER AT] the hearing and shall issue a **proposed decision**
 17 [FINAL ORDER] within 10 days after the hearing; **the commissioner shall issue a**
 18 **final order within five days after the proposed decision is issued;**

19 (2) bring an action in the superior court to enjoin the acts or practices
 20 and to enforce compliance with this chapter, a regulation adopted under it, an order
 21 issued under it, or with a provision of this title or regulation adopted under this title
 22 dealing with business licenses or an occupation or board listed in AS 08.01.010;

23 (3) examine or have examined the books and records of a person
 24 whose business activities require a business license or licensure by a board listed in
 25 AS 08.01.010, or whose occupation is listed in AS 08.01.010; the commissioner may
 26 require the person to pay the reasonable costs of the examination; and

27 (4) issue subpoenas for the attendance of witnesses, and the production
 28 of books, records, and other documents.

29 * **Sec. 9.** AS 08.11.090(c) is amended to read:

30 (c) The department may summarily suspend a license before final hearing or
 31 during the appeals process if the department finds that the licensee poses a clear and

1 immediate danger to the public welfare and safety if the licensee continues to practice.
 2 An individual whose license is suspended under this subsection is entitled to a hearing
 3 **conducted** by the **office of administrative hearings (AS 44.64.010)** **not**
 4 [DEPARTMENT NO] later than seven days after the effective date of the order. The
 5 individual may appeal the suspension after the hearing to the superior court.

6 * **Sec. 10.** AS 08.32.171(c) is amended to read:

7 (c) The board may summarily suspend the license of a licensee who refuses to
 8 submit to a physical or mental examination under AS 08.36.070(b)(1). A person
 9 whose license is suspended under this section is entitled to a hearing **conducted** by the
 10 **office of administrative hearings (AS 44.64.010)** [BOARD] within seven days after
 11 the effective date of the order. If, after a hearing, the board upholds the suspension,
 12 the licensee may appeal the suspension to a court of competent jurisdiction.

13 * **Sec. 11.** AS 08.36.320(c) is amended to read:

14 (c) The board may summarily suspend the license of a licensee who refuses to
 15 submit to a physical or mental examination under AS 08.36.070(b)(1). A person
 16 whose license is suspended under this section is entitled to a hearing **conducted** by the
 17 **office of administrative hearings (AS 44.64.010)** [BOARD] within seven days after
 18 the effective date of the order. If, after a hearing, the board upholds the suspension,
 19 the licensee may appeal the suspension to a court of competent jurisdiction.

20 * **Sec. 12.** AS 08.40.170(f) is amended to read:

21 (f) The department may summarily suspend a license before a final hearing is
 22 held or during an appeal if the department finds that the licensee poses a clear and
 23 immediate danger to the public health and safety. A person is entitled to a hearing
 24 **conducted by** [BEFORE] the **office of administrative hearings (AS 44.64.010)**
 25 [DEPARTMENT] to appeal the summary suspension within seven days after the order
 26 of suspension is issued. A person may appeal an adverse decision of the department
 27 on an appeal of a summary suspension to a court of competent jurisdiction.

28 * **Sec. 13.** AS 08.40.320(f) is amended to read:

29 (f) The department may summarily suspend a license before a final hearing is
 30 held or during an appeal if the department finds that the licensee poses a clear and
 31 immediate danger to the public health and safety. A person is entitled to a hearing

1 **conducted by** [BEFORE] the **office of administrative hearings (AS 44.64.010)**
 2 [DEPARTMENT] to appeal the summary suspension within seven days after the order
 3 of suspension is issued. A person may appeal an adverse decision of the department
 4 on an appeal of a summary suspension to a court of competent jurisdiction.

5 * **Sec. 14.** AS 08.45.070(c) is amended to read:

6 (c) The division may summarily suspend a license before final hearing or
 7 during the appeals process if the division finds that the licensee poses a clear and
 8 immediate danger to the public health and safety if the licensee continues to practice.
 9 A licensee whose license is suspended under this section is entitled to a hearing
 10 **conducted** by the **office of administrative hearings (AS 44.64.010) not** [DIVISION
 11 NO] later than seven days after the effective date of the order. The licensee may
 12 appeal the suspension after a hearing to a court of competent jurisdiction.

13 * **Sec. 15.** AS 08.54.710(i) is amended to read:

14 (i) The department may summarily suspend a licensee from practice of the
 15 profession under this chapter, for a period of not more than 30 days, before a final
 16 hearing is held or during an appeal if the department finds that the licensee poses a
 17 clear and immediate danger to the public health and safety. A person is entitled to a
 18 hearing **conducted by** [BEFORE] the **office of administrative hearings**
 19 **(AS 44.64.010)** [DEPARTMENT] to appeal the summary suspension within seven
 20 days after the order of suspension is issued. A person may appeal an adverse decision
 21 of the department on an appeal of summary suspension to a court of competent
 22 jurisdiction.

23 * **Sec. 16.** AS 08.55.140(c) is amended to read:

24 (c) The department may summarily suspend a license before final hearing or
 25 during the appeals process if the department finds that the licensee poses a clear and
 26 immediate danger to the public welfare and safety if the licensee continues to practice.
 27 A person whose license is suspended under this subsection is entitled to a hearing
 28 **conducted** by the **office of administrative hearings (AS 44.64.010) not**
 29 [DEPARTMENT NO] later than seven days after the effective date of the order. The
 30 person may appeal the suspension after the hearing to the superior court.

31 * **Sec. 17.** AS 08.64.331(c) is amended to read:

1 (c) The board may summarily suspend a license before final hearing or during
 2 the appeals process if the board finds that the licensee poses a clear and immediate
 3 danger to the public health and safety if the licensee continues to practice. A person
 4 whose license is suspended under this section is entitled to a hearing **conducted** by the
 5 **office of administrative hearings (AS 44.64.010) not** [BOARD NO] later than seven
 6 days after the effective date of the order and the person may appeal the suspension
 7 after a hearing to a court of competent jurisdiction.

8 * **Sec. 18.** AS 08.65.120(c) is amended to read:

9 (c) The board may summarily suspend a license before final hearing or during
 10 the appeals process if the board finds that the licensee poses a clear and immediate
 11 danger to the public health and safety if the licensee continues to practice. A person
 12 whose license is suspended under this section is entitled to a hearing **conducted** by the
 13 **office of administrative hearings (AS 44.64.010) not** [BOARD NO] later than seven
 14 days after the effective date of the order and the person may appeal the suspension
 15 after a hearing to a court of competent jurisdiction.

16 * **Sec. 19.** AS 08.68.275(c) is amended to read:

17 (c) The board may summarily suspend a license before final hearing or during
 18 the appeals process if the board finds that the licensee poses a clear and immediate
 19 danger to the public health and safety. A person whose license is suspended under this
 20 section is entitled to a hearing **conducted** by the **office of administrative hearings**
 21 **(AS 44.64.010)** [BOARD] within seven days after the effective date of the order. If,
 22 after a hearing, the board upholds the suspension, the licensee may appeal the
 23 suspension to a court of competent jurisdiction.

24 * **Sec. 20.** AS 08.86.204(b) is amended to read:

25 (b) The board may summarily suspend the license of a licensee who refuses to
 26 submit to a physical or mental examination under AS 08.86.075. A person whose
 27 license is suspended under this subsection is entitled to a hearing **conducted** by the
 28 **office of administrative hearings (AS 44.64.010)** [BOARD] within seven days after
 29 the effective date of the order. If, after **the** [A] hearing, the board upholds the
 30 suspension, the licensee may appeal the suspension to a court of competent
 31 jurisdiction.

1 * **Sec. 21.** AS 08.88.460(b) is amended to read:

2 (b) A copy of a claim filed with the commission under (a) of this section shall
3 be sent to each real estate licensee alleged to have committed the misconduct resulting
4 in losses, to the principal real estate broker employing a licensee alleged to have
5 committed the conduct resulting in losses, and to any other real estate licensee
6 involved in the transaction at least 20 days before any hearing held on the claim by the
7 **office of administrative hearings (AS 44.64.010)** [COMMISSION].

8 * **Sec. 22.** AS 08.88.460(d) is amended to read:

9 (d) A claimant under this section shall pay a filing fee of \$250 to the
10 commission at the time the claim is filed. The filing fee shall be refunded if **the**

11 (1) [THE] commission makes an award to the claimant from the real
12 estate surety fund;

13 (2) [THE] claim is dismissed under (c) of this section; or

14 (3) [THE] claim is withdrawn by the claimant before the **office of**
15 **administrative hearings (AS 44.64.010)** [COMMISSION] holds a hearing on the
16 claim.

17 * **Sec. 23.** AS 08.88.472(c) is amended to read:

18 (c) The commission may contract under AS 36.30 (State Procurement Code)
19 with a person for the person to perform [HEARING AND] legal services for the
20 commission with regard to a claim against the real estate surety fund. The contract
21 may cover one or more claims.

22 * **Sec. 24.** AS 08.92.040(c) is amended to read:

23 (c) If the department determines that a person is acting as a promoter in
24 violation of this chapter, the department may order the person to stop the violation.
25 Upon receipt of the order, the person affected has the right to be heard and to present
26 proof to the **office of administrative hearings (AS 44.64.010)** [DEPARTMENT] that
27 the violation has not occurred. **Upon** [IN THE DEPARTMENT'S DISCRETION OR
28 UPON] application made by the recipient of the order, the **office of administrative**
29 **hearings may** [DEPARTMENT SHALL] schedule a hearing at the earliest possible
30 time. After the hearing the department may affirm, modify, or set aside the order.

31 * **Sec. 25.** AS 10.06.633(b) is amended to read:

1 (b) A corporation may not be dissolved under this section unless the
 2 commissioner has given the corporation written notice of its delinquency, failure, or
 3 noncompliance by mail as provided by (i) of this section. If the corporation fails,
 4 within 60 days after the requirements of (i) of this section have been satisfied, to
 5 contest the alleged neglect, omission, delinquency, or noncompliance by a written
 6 request for a hearing **conducted by** [BEFORE] the **office of administrative hearings**
 7 **(AS 44.64.010)** [COMMISSIONER] or fails to correct the asserted neglect, omission,
 8 delinquency, or noncompliance, it may be dissolved under (d) of this section.

9 * **Sec. 26.** AS 10.06.865 is amended to read:

10 **Sec. 10.06.865. Cancellation of certificates issued and filings accepted.**

11 The commissioner may, within one year after a filing, and after written notice to the
 12 corporation or individual making the filing, cancel a certificate issued or filing
 13 accepted under this chapter, on any ground existing at the time of issuance or filing for
 14 which the commissioner could have originally refused to issue the certificate or accept
 15 the filing. The notice of cancellation must state the reason for the cancellation. A
 16 corporation or individual may request a hearing **conducted by** [BEFORE] the **office**
 17 **of administrative hearings (AS 44.64.010)** [COMMISSIONER] within 90 days after
 18 receipt of the notice. Cancellation becomes final if the corporation or individual does
 19 not request a hearing within 90 days after receipt of notice. Notice of cancellation
 20 shall be sent by certified mail with return receipt requested. If the return receipt is not
 21 received by the department within a reasonable time and the department has made
 22 diligent inquiry as to the address of the corporation, notice may be made by
 23 publication in a newspaper of general circulation in the vicinity of the registered office
 24 of the corporation or the address of the individual who made the filing, and the
 25 cancellation becomes final 60 days after publication of the notice if the person or
 26 corporation does not request a hearing.

27 * **Sec. 27.** AS 10.13.770(b) is amended to read:

28 (b) If the department fails to **promptly notify the office of administrative**
 29 **hearings (AS 44.64.010) of the application and the office fails to** begin a hearing
 30 within 15 business days after the application is filed or within a longer period to which
 31 the licensee or subject person consents, the order shall be considered rescinded.

1 * **Sec. 28.** AS 14.11.016(b) is amended to read:

2 (b) A district may appeal an adverse decision of the department under (a) of
 3 this section by filing a written notice of appeal with the commissioner within 15 days
 4 after the date of the department's decision. The notice of appeal must state the legal
 5 and factual basis for the appeal and the precise relief sought. The failure of the district
 6 to include an issue in a notice of appeal constitutes a waiver of the right to have the
 7 issue considered. Not later than 10 days after receipt **by the commissioner** of a notice
 8 of appeal, the **chief administrative law judge of the office of administrative**
 9 **hearings (AS 44.64.010)** [COMMISSIONER] shall appoint **an administrative law**
 10 **judge** [A HEARING OFFICER] who is qualified under AS 44.62.350(c) to **serve as**
 11 **hearing officer and** consider the appeal. If the hearing officer finds that the notice of
 12 appeal does not raise a reasonable issue of fact or law, the hearing officer shall issue a
 13 written decision denying the appeal. Denial of an appeal by hearing officer is a final
 14 decision that may be appealed under (d) of this section. If the hearing officer finds
 15 that the notice of appeal raises a reasonable issue of fact or law, the hearing officer
 16 shall conduct a hearing on those issues and recommend a decision to the board. The
 17 hearing officer shall issue a decision on the appeal not later than 60 days after being
 18 appointed. The board shall consider the recommended decision of the hearing officer
 19 at its next regularly scheduled meeting and may adopt all, part, or none of the
 20 recommended decision or may remand the issue to the hearing officer for further
 21 hearings. The board shall issue its decision in writing within 10 days after
 22 consideration of the hearing officer's decision.

23 * **Sec. 29.** AS 14.18.090(a) is amended to read:

24 (a) The board shall enforce compliance by school districts and regional
 25 educational attendance areas with the provisions of this chapter and the regulations
 26 and procedures adopted under it by appropriate order made in accordance with
 27 AS 44.62. After **a** hearing **conducted by the office of administrative hearings**
 28 **(AS 44.64.010)** and a finding **by the board** that a district or a regional educational
 29 attendance area is not in compliance with this chapter and is not actively working to
 30 come into compliance, the board shall institute appropriate proceedings to abate the
 31 practices found by the board to be a violation of this chapter.

1 * **Sec. 30.** AS 14.48.130(b) is amended to read:

2 (b) The commission shall investigate the complaint and may attempt to effect
3 a settlement by persuasion and conciliation. A [THE COMMISSION MAY
4 CONSIDER A] complaint **may be considered** after 30 **days'** [DAYS] written notice
5 by registered mail to the institution or agent, or both, giving notice of a time and place
6 for hearing on the complaint. The hearing shall be conducted in accordance with
7 AS 44.62 (Administrative Procedure Act) **by the office of administrative hearings**
8 **(AS 44.64.010)**.

9 * **Sec. 31.** AS 18.18.030(b) is amended to read:

10 (b) The department may, without a hearing, summarily suspend a license of a
11 hospice program if it finds that the actions or deficiencies of the program have caused,
12 or present an immediate threat of causing, serious injury to a hospice program client.
13 A licensee is entitled to a hearing **conducted by the office of administrative**
14 **hearings (AS 44.64.010)** [BEFORE THE DEPARTMENT] to appeal the summary
15 suspension within seven days after the order of suspension is issued. A licensee may
16 appeal an adverse decision of the department on an appeal of a summary suspension to
17 the superior court. A summary suspension remains in effect until the department finds
18 that the actions or deficiencies are corrected, the license is revoked, or the licensee is
19 successful in appealing the suspension.

20 * **Sec. 32.** AS 18.18.030(c) is amended to read:

21 (c) The department may, without a hearing, reduce a hospice license to a
22 provisional license for a period of time established by the department if the department
23 finds that the licensee is temporarily unable to comply with 18.18.005 - 18.18.390 or
24 is in the process of becoming decertified under the Medicare program but is taking
25 appropriate steps to bring the program into compliance with 18.18.005 - 18.18.390 or
26 Medicare certification requirements. A licensee is entitled to a hearing **conducted by**
27 **the office of administrative hearings** [BEFORE THE DEPARTMENT] to appeal a
28 reduction to a provisional license under this subsection within seven days after the
29 order to reduce the license is issued. A licensee may appeal an adverse decision of the
30 department on an appeal of the order reducing the license to a provisional license to
31 the superior court. A program with a provisional license under this subsection may

1 not accept new clients. If the program fails to correct its deficiencies and does not
 2 successfully appeal the order reducing the license to provisional status within the
 3 period stipulated in the provisional license, the department shall revoke the license.

4 * **Sec. 33.** AS 18.60.093 is amended by adding a new subsection to read:

5 (g) After obtaining consent from the chief administrative law judge
 6 (AS 44.64.020), the commission shall appoint an administrative law judge employed
 7 or retained by the office of administrative hearings to preside at a hearing conducted
 8 under this section. AS 44.64.060 and 44.64.070 do not apply to the hearing. The
 9 administrative law judge who presided at the hearing shall be present during the
 10 consideration of the case and, if requested by the commission, shall assist and advise
 11 the commission. A member of the commission who has not heard all of the evidence
 12 may not vote on the decision.

13 * **Sec. 34.** AS 18.67.020(f) is amended to read:

14 (f) After obtaining consent from the chief administrative law judge
 15 (AS 44.64.020), the [THE] board may appoint one or more administrative law
 16 judges employed or retained by the office of administrative hearings [HEARING
 17 OFFICERS, WHO MUST BE LICENSED TO PRACTICE LAW IN THE STATE,]
 18 to conduct hearings and take testimony in proceedings under this chapter, but final
 19 determinations of any matter shall be only by the board. AS 44.64.060 and 44.64.070
 20 do not apply to proceedings under this chapter. An administrative law judge [A
 21 HEARING OFFICER] acting under this section shall report findings of fact and
 22 conclusions of law to the board, together with the reasons for the findings and
 23 conclusions. The board shall act only after consideration of the report and other
 24 evidence that it considers appropriate.

25 * **Sec. 35.** AS 18.80.120 is amended by adding a new subsection to read:

26 (b) After obtaining consent from the chief administrative law judge
 27 (AS 44.64.020), the commission shall appoint an administrative law judge employed
 28 or retained by the office of administrative hearings to preside at a hearing conducted
 29 under this section. AS 44.64.060 and 44.64.070 do not apply to the hearing. The
 30 administrative law judge who presided at the hearing shall be present during the
 31 consideration of the case and, if requested by the commission, shall assist and advise

1 the commission. A member of the commission who has not heard all of the evidence
2 may not vote on the decision.

3 * **Sec. 36.** AS 18.80.145(b) is amended to read:

4 (b) If, within the period allowed, [THE COMMISSION CONDUCTS] a
5 hearing **is conducted** and [REACHES] a decision **is reached** under AS 18.80.120 and
6 18.80.130, the decision of the commission is binding on the parties to the court action
7 as to all issues resolved in the hearing but not as to any issues not resolved in the
8 hearing.

9 * **Sec. 37.** AS 18.80.145(c) is amended to read:

10 (c) When proceedings in the superior court are deferred for a hearing and
11 decision [BY THE COMMISSION] under this section, the plaintiff may proceed, after
12 the decision of the commission, as an aggrieved party for the purpose of obtaining
13 judicial review under AS 18.80.135, whether or not the person was a party to, or
14 complainant in, the **administrative** [COMMISSION] proceedings.

15 * **Sec. 38.** AS 21.06.170(a) is amended to read:

16 (a) With respect to the subject of an examination, investigation, or hearing
17 being conducted by the director or an examiner, if general written authority has been
18 given the examiner by the director, the director or the examiner may subpoena
19 witnesses and administer oaths or affirmations and examine any person under oath,
20 and may compel the production of records, books, papers, contracts, and other
21 documents by attachments, if necessary. If, in connection with an examination of an
22 insurer, the director desires to examine an officer, director, or manager who is then
23 outside this state, the director is authorized to conduct and to enforce by appropriate
24 and available means an examination under oath in another state or a territory of the
25 United States in which the officer, director, or manager may then presently be, to the
26 full extent permitted by the laws of the other state or territory, this special
27 authorization considered. **An administrative law judge from the office of**
28 **administrative hearings (AS 44.64.010) conducting a hearing under this title may,**
29 **in the course of the hearing, exercise the powers granted to the director under**
30 **this subsection.**

31 * **Sec. 39.** AS 21.06.170(d) is amended to read:

1 (d) If a person disobeys or resists a lawful order of the **administrative law**
 2 **judge or** director, refuses to respond to a subpoena, refuses to take oath or affirmation
 3 as a witness, refuses to be examined, or is guilty of misconduct at a hearing or so near
 4 the hearing as to obstruct the proceeding, the **administrative law judge or** director
 5 shall certify the facts to the superior court where the hearing is held, and, upon
 6 certification, the court shall issue an order directing the person to appear before the
 7 court and show cause why the person should not be punished for contempt.

8 * **Sec. 40.** AS 21.06.180(b) is amended to read:

9 (b) The **office of administrative hearings (AS 44.64.010)** [DIRECTOR] shall
 10 **conduct** [HOLD] a hearing **on behalf of the director if required under**
 11 **AS 44.64.030. Otherwise, the director shall conduct a hearing** if required by a
 12 provision of this title, or upon written demand **to the director** by a person aggrieved
 13 by an act, threatened act, or failure of the director to act, or by a report, regulation, or
 14 order of the director (other than an order for the holding of a hearing, or an order on
 15 hearing or under it). A demand must specify the grounds to be relied upon at the
 16 hearing as a basis for the relief. Unless postponed by mutual consent or for good
 17 cause shown, the hearing shall be held within 30 days after receipt by the director of
 18 the written demand.

19 * **Sec. 41.** AS 21.06.200 is amended to read:

20 **Sec. 21.06.200. Notice of hearing.** Not less than 20 days in advance, the
 21 **administrative law judge or** director shall give notice of the time and place of the
 22 hearing, stating the matters to be considered at the hearing. If the persons to be given
 23 notice are not specified in the provision under which the hearing is held, the
 24 **administrative law judge or** director shall give notice to all persons whose pecuniary
 25 interests are to be directly and immediately affected by the hearing.

26 * **Sec. 42.** AS 21.06.210(a) is amended to read:

27 (a) The **administrative law judge or** director shall allow a party to the
 28 hearing to appear in person and by counsel, to be present during the giving of all
 29 evidence, to have a reasonable opportunity to inspect all documentary evidence and to
 30 examine witnesses, to present evidence in support of the party's interest, and to have
 31 subpoenas issued by the **administrative law judge or** director to compel attendance

1 of witnesses and production of evidence in the party's behalf.

2 * **Sec. 43.** AS 21.06.210(b) is amended to read:

3 (b) The **administrative law judge or** director shall permit to become a party
4 to the hearing by intervention, if timely, any person who was not an original party to
5 the proceeding and whose pecuniary interests are to be directly and immediately
6 affected by the director's order made upon the hearing.

7 * **Sec. 44.** AS 21.06.210(d) is amended to read:

8 (d) Upon written request seasonably made by a party to the hearing and at that
9 person's expense, the **administrative law judge or** director shall cause a full
10 stenographic record of the proceedings to be made by a competent reporter. If
11 transcribed, a copy of the stenographic record shall be furnished to the director,
12 without cost to the director or the state, and shall be a part of the director's record of
13 the hearing. If transcribed, a copy of the stenographic record shall be furnished to any
14 other party to the hearing at the request and expense of the other party. If no
15 stenographic record is made or transcribed, the **administrative law judge or** director
16 shall prepare an adequate record of the evidence and of the proceedings.

17 * **Sec. 45.** AS 21.06.210(f) is amended to read:

18 (f) If the parties agree, the **administrative law judge or** director may conduct
19 a hearing under this section by teleconference.

20 * **Sec. 46.** AS 21.06.210(h) is amended to read:

21 (h) The **administrative law judge or** director may close a hearing to the
22 public when the **administrative law judge or** director finds the closure is necessary to
23 protect a person against unwarranted injury or is in the public interest.

24 * **Sec. 47.** AS 21.06.220(a) is amended to read:

25 (a) In conducting the hearing, the **administrative law judge or** director shall
26 sit in a quasi-judicial capacity. Within **45** [30] days after termination of the hearing,
27 rehearing, or reargument, the director shall make an order on hearing, covering matters
28 involved in the hearing, rehearing, or reargument, and shall give a copy of the order to
29 the same persons given notice of the hearing.

30 * **Sec. 48.** AS 24.60.030 is amended by adding a new subsection to read:

31 (i) Except for supplying information requested by the hearing officer or the

1 entity with authority to make the final decision in the case, or when responding to
 2 contacts initiated by the hearing officer or the entity with authority to make the final
 3 decision in the case, a legislator or legislative employee may not attempt to influence
 4 the outcome of an administrative hearing by directly or indirectly contacting or
 5 attempting to contact the hearing officer assigned to the hearing or the entity with
 6 authority to make the final decision in the case unless the

7 (1) contact is made in the presence of all parties to the hearing or the
 8 parties' representatives and the contact is made a part of the record; or

9 (2) fact and substance of the contact is promptly disclosed by the
 10 legislator or legislative employee to all parties to the hearing and the contact is made a
 11 part of the record.

12 * **Sec. 49.** AS 34.45.400(c) is amended to read:

13 (c) At the formal hearing, the **administrative law judge from the office of**
 14 **administrative hearings (AS 44.64.010)** [DEPARTMENT] may subpoena witnesses
 15 and may administer oaths and make inquiries necessary to determine the validity of
 16 the claim. The person aggrieved may present arguments and evidence relevant to the
 17 decision or action of the department. If, **after the hearing,** the department determines
 18 that a correction is warranted, the department shall make the correction.

19 * **Sec. 50.** AS 36.30.015(d) is amended to read:

20 (d) An agency may not contract for the services of legal counsel without the
 21 approval of the attorney general. **An agency may not contract for the services of a**
 22 **hearing officer or administrative law judge for a administrative, quasi-judicial**
 23 **hearing without the approval of the attorney general and the chief administrative**
 24 **law judge of the office of administrative hearings (AS 44.64.010).**

25 * **Sec. 51.** AS 36.30.615 is amended to read:

26 **Sec. 36.30.615. Hearing on protest appeal.** A hearing on a protest appeal
 27 shall be conducted in accordance with AS 36.30.670 and regulations adopted by the
 28 commissioner **to the extent the regulations do not conflict with regulations**
 29 **adopted under AS 44.64.060.**

30 * **Sec. 52.** AS 36.30.630(a) is amended to read:

31 (a) Except as provided in (b) of this section, a hearing shall be conducted

1 according to AS 36.30.670 and, **to the extent they do not conflict with regulations**
 2 **adopted under AS 44.64.060**, regulations adopted by the commissioner of
 3 administration on a contract claim appealed to the commissioner of administration or
 4 the commissioner of transportation and public facilities or referred to either
 5 commissioner under AS 36.30.620(f).

6 * **Sec. 53.** AS 36.30.635(a) is amended to read:

7 (a) After consultation with the using agency and the attorney general and after
 8 a hearing conducted according to AS 36.30.670 and, **to the extent they do not**
 9 **conflict with regulations adopted under AS 44.64.060**, regulations adopted by the
 10 commissioner of administration, the commissioner of administration or the
 11 commissioner of transportation and public facilities may debar a person for cause from
 12 consideration for award of contracts. Notice of a debarment hearing shall be provided
 13 in writing at least seven days before the hearing. The debarment may not be for a
 14 period of more than three years.

15 * **Sec. 54.** AS 36.30.650 is amended to read:

16 **Sec. 36.30.650. Hearing on a suspension.** (a) A person suspended under
 17 AS 36.30.635 is entitled to a hearing conducted according to AS 36.30.670 and, **to the**
 18 **extent that they do not conflict with regulations adopted under AS 44.64.060**,
 19 regulations adopted by the commissioner of administration if the person files a written
 20 request for a hearing with the commissioner of administration or the commissioner of
 21 transportation and public facilities, as appropriate, within seven days after receipt of
 22 the notice of suspension under AS 36.30.645.

23 (b) If a suspended person requests a hearing, the commissioner of
 24 administration or the commissioner of transportation and public facilities, as
 25 appropriate, **after consulting with the office of administrative hearings**
 26 **(AS 44.64.010)**, shall schedule a prompt hearing unless the attorney general
 27 determines that a hearing at the proposed time is likely to jeopardize an investigation.
 28 A hearing may not be delayed longer than six months after notice of the suspension is
 29 provided under AS 36.30.645.

30 * **Sec. 55.** AS 36.30.670(a) is amended to read:

31 (a) The **chief administrative law judge (AS 44.64.010)** [COMMISSIONER

1 OF ADMINISTRATION OR THE COMMISSIONER OF TRANSPORTATION
 2 AND PUBLIC FACILITIES] shall **assign an administrative law judge to** act as a
 3 hearing officer [OR APPOINT A HEARING OFFICER] for a hearing conducted
 4 under this chapter. The hearing officer shall arrange for a prompt hearing and notify
 5 the parties in writing of the time and place of the hearing. The hearing shall be
 6 conducted in an informal manner. The provisions of AS 44.62 (Administrative
 7 Procedure Act) do not apply to a hearing conducted under this chapter.

8 * **Sec. 56.** AS 36.30.675(a) is amended to read:

9 (a) **The** [IF THE COMMISSIONER OF ADMINISTRATION OR THE
 10 COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES IS NOT
 11 ACTING AS HEARING OFFICER, THE] hearing officer shall recommend a decision
 12 to the commissioner **of administration or the commissioner of transportation and**
 13 **public facilities, as appropriate,** based on the evidence presented. The
 14 recommendation must include findings of fact and conclusions of law.

15 * **Sec. 57.** AS 39.52.120 is amended by adding a new subsection to read:

16 (e) Except for supplying information requested by the hearing officer or the
 17 entity with authority to make the final decision in the case, or when responding to
 18 contacts initiated by the hearing officer or the entity with authority to make the final
 19 decision in the case, a public officer may not attempt to influence the outcome of an
 20 administrative hearing by directly or indirectly contacting or attempting to contact the
 21 hearing officer or entity with authority to make the final decision in the case assigned
 22 to the hearing officer unless the

- 23 (1) contact is made in the presence of all parties to the hearing or the
 24 parties' representatives and the contact is made a part of the record; or
 25 (2) fact and substance of the contact is promptly disclosed by the
 26 public officer to all parties to the hearing and the contact is made a part of the record.

27 * **Sec. 58.** AS 39.52.350(c) is amended to read:

28 (c) If the subject of the accusation denies that a violation of this chapter has
 29 occurred, the attorney general shall refer the matter to the personnel board, which
 30 **shall notify the chief administrative law judge (AS 44.64.010), who** shall appoint
 31 **an administrative law judge to serve as** a hearing officer to conduct a hearing.

1 * **Sec. 59.** AS 43.05.420 is amended by adding a new subsection to read:

2 (d) If there is a vacancy in the office of chief administrative law judge, the
3 commissioner may refer a case to a hearing officer for a hearing under AS 43.05.400 -
4 43.05.499.

5 * **Sec. 60.** AS 43.05.420(d) is repealed and reenacted to read:

6 (d) If there is a vacancy in the office of chief administrative law judge, the
7 commissioner may refer a case to the office of administrative hearings (AS 44.64.010)
8 and request that office to conduct the hearing. Once referred, the office shall have
9 jurisdiction over the case until the final administrative decision is made.
10 AS 43.05.435 - 43.05.499 apply to a hearing conducted by the office under this
11 subsection.

12 * **Sec. 61.** AS 43.70.075(m) is amended to read:

13 (m) The department may initiate suspension of a business license endorsement
14 or the right to obtain a business license endorsement under this section by sending the
15 person subject to the suspension a notice by certified mail, return receipt requested, or
16 by delivering the notice to the person. The notice must contain information that
17 informs the person of the grounds for suspension, the length of any suspension sought,
18 and the person's right to administrative review [BEFORE THE DEPARTMENT]. A
19 suspension begins 30 days after receipt of notice described in this subsection unless
20 the person delivers a timely written request for a hearing to the department in the
21 manner provided by regulations of the department. If a hearing is requested under this
22 subsection, a hearing officer of the **office of administrative hearings (AS 44.64.010)**
23 [DEPARTMENT] shall determine the issues by using the preponderance of the
24 evidence test and shall, **to the extent they do not conflict with regulations adopted**
25 **under AS 44.64.060,** conduct the hearing in the manner provided by regulations of the
26 department. A hearing under this subsection is limited to the following questions:

27 (1) was the person holding the business license endorsement, or an
28 agent or employee of the person while acting within the scope of the agency or
29 employment of the person, convicted by plea or judicial finding of violating
30 AS 11.76.100, 11.76.106, or 11.76.107;

31 (2) if the department does not allege a conviction of AS 11.76.100,

1 11.76.106, or 11.76.107, did the person, or an agent or employee of the person while
 2 acting within the scope of the agency or employment of the person, violate a provision
 3 of (a) or (g) of this section;

4 (3) within the 24 months before the date of the department's notice
 5 under this subsection, was the person, or an agent or employee of the person while
 6 acting within the scope of the agency or employment of the person, convicted of
 7 violating AS 11.76.100, 11.76.106, or 11.76.107 or adjudicated for violating a
 8 provision of (a) or (g) of this section.

9 * **Sec. 62.** AS 43.70.075(q) is amended to read:

10 (q) The department may adopt regulations **that do not conflict with**
 11 **regulations adopted under AS 44.64.010** to establish an administrative hearing
 12 process for actions taken [BY THE DEPARTMENT] under this section. AS 44.62
 13 (Administrative Procedure Act) does not apply to a hearing under this section.

14 * **Sec. 63.** AS 44.62.350(a) is amended to read:

15 (a) The governor shall assign a qualified, unbiased, and impartial hearing
 16 officer, with experience in the general practice of law, to conduct hearings under this
 17 chapter **that are not conducted by the office of administrative hearings**
 18 **(AS 44.64.010).** A [THE] hearing officer may perform other duties in connection
 19 with the administration of this chapter and other laws.

20 * **Sec. 64.** AS 44.62.450(a) is amended to read:

21 (a) A hearing in a contested case shall be presided over by a hearing officer.
 22 **Unless the hearing is conducted by the office of administrative hearings**
 23 **(AS 44.64.010), the** [THE] agency itself shall determine whether the hearing officer
 24 hears the case alone or whether the agency hears the case with the hearing officer.

25 * **Sec. 65.** AS 44.62.500(b) is amended to read:

26 (b) If a contested case is heard by a hearing officer alone, the hearing officer
 27 shall prepare a proposed decision in a form that may be adopted as the decision in the
 28 case. A copy of the proposed decision shall be filed by the agency as a public record
 29 with the lieutenant governor, and a copy of the proposed decision shall be served by
 30 the agency on each party in the case and the party's attorney. **Except as otherwise**
 31 **provided in AS 44.64.060(e), for a hearing conducted by the office of**

1 **administrative hearings, the** [THE] agency itself may adopt the proposed decision in
 2 its entirety, or may reduce the proposed penalty and adopt the balance of the proposed
 3 decision.

4 * **Sec. 66.** AS 44.62.500(c) is amended to read:

5 (c) If the proposed decision is not adopted as provided in (b) of this section the
 6 agency may decide the case upon the record, including the transcript, with or without
 7 taking additional evidence, or may refer the case to the same or another hearing officer
 8 to take additional evidence. If the case is so assigned the hearing officer shall prepare
 9 a proposed decision as provided in (b) of this section upon the additional evidence and
 10 the transcript and other papers that are part of the record of the earlier hearing. A copy
 11 of the proposed decision shall be furnished to each party and the party's attorney as
 12 prescribed by (b) of this section. The agency may not decide a case provided for in
 13 this subsection without giving the parties the opportunity to present either oral or
 14 written argument before the agency. If additional oral evidence is introduced before
 15 the agency, an agency member may not vote unless that member has heard the
 16 additional oral evidence. **This subsection does not apply to a hearing conducted by**
 17 **the office of administrative hearings.**

18 * **Sec. 67.** AS 44.64.030(a), added by sec. 3 of this Act, is amended to read:

19 (a) The office shall conduct all adjudicative administrative hearings required
 20 under the following statutes or under regulations adopted to implement the statutes:

- 21 (1) AS 04.11.510(b)(1) and (c) (alcoholic beverages license);
 22 (2) AS 05.15 (charitable gaming);
 23 (3) AS 05.20 (recreational devices);
 24 (4) AS 05.90.001 (special racing events);
 25 (5) AS 06 (banks and financial institutions);
 26 (6) AS 08 (occupational licensing), other than AS 08.08 and
 27 AS 08.62.046;
 28 (7) AS 10.06 (Alaska Corporations Code);
 29 (8) AS 10.13 (Alaska BIDCO Act);
 30 (9) AS 10.25.375 (Electric and Telephone Cooperative Act);
 31 (10) AS 10.50.408 (limited liability companies);

- 1 (11) AS 14.11.016 (education-related facility grants);
- 2 (12) AS 14.18 (discrimination in public education);
- 3 (13) AS 14.20.030 (teacher certificates);
- 4 (14) AS 14.48 (postsecondary educational institutions);
- 5 (15) AS 17.20 (Alaska Food, Drug, and Cosmetic Act), other than
- 6 AS 17.20.060 and 17.20.360;
- 7 (16) AS 18.18.030 (hospice licenses);
- 8 (17) AS 18.20 (hospitals and nursing facilities), other than
- 9 AS 18.20.180;
- 10 (18) AS 18.35.040 (tourist accommodations);
- 11 (19) AS 21.09, AS 21.22.190, AS 21.27, AS 21.34, AS 21.36,
- 12 AS 21.69, AS 21.86.200, AS 21.87, and AS 21.89 (insurance);
- 13 (20) AS 25.27 (child support enforcement);
- 14 (21) AS 32.06 (Uniform Partnership Act);
- 15 (22) AS 34.45 (unclaimed property);
- 16 (23) AS 34.55.024 and 34.55.026 (Uniform Land Sales Practices Act);
- 17 (24) AS 36.30 (State Procurement Code), other than
- 18 AS 36.30.627(a)(2);
- 19 (25) AS 38.05.065 (contracts for sale of state land);
- 20 (26) AS 39.52 (Alaska Executive Branch Ethics Act);
- 21 (27) AS 43.23 (permanent fund dividends);
- 22 (28) AS 43.70 (Alaska Business License Act);
- 23 (29) AS 44.50 (notaries public);
- 24 (30) AS 44.77 (claims against the state);
- 25 (31) AS 45.30.040 (mobile homes);
- 26 (32) AS 45.55 (Alaska Securities Act);
- 27 (33) AS 45.57 (Takeover Bid Disclosure Act);
- 28 (34) **AS 46 (water, air, energy, and environmental conservation),**
- 29 **other than AS 46.03.820, 46.03.850, AS 46.39, and AS 46.40;**
- 30 **(35)** AS 47.33 (assisted living homes);
- 31 **(36)** [(35)] AS 47.35 (child care);

1 **(37)** [(36)] AS 47.45 (longevity bonuses).

2 * **Sec. 68.** AS 44.77.040(a) is amended to read:

3 (a) The Department of Administration, **after consulting with the office of**
 4 **administrative hearings (AS 44.64.010)**, shall fix a time for hearing the appeal and
 5 shall notify the claimant and the officer who approved the voucher and give them a
 6 reasonable opportunity to be heard. **The hearing shall be conducted by the office of**
 7 **administrative hearings.**

8 * **Sec. 69.** AS 45.30.040(c) is amended to read:

9 (c) Whenever it determines that there may be a violation of the provisions of
 10 this chapter by a manufacturer or dealer of mobile homes, the department may give
 11 notice of hearing, and, within 30 days after giving notice, [HOLD] a hearing **shall be**
 12 **held by the office of administrative hearings (AS 44.64.010)** to determine whether
 13 there has been a violation. After notice and hearing,

14 (1) if the department finds that there has been a violation of the
 15 provisions of this chapter, the department may issue an order directing that the person
 16 who is violating the provision cure the violation in a reasonable time and in a
 17 reasonable manner;

18 (2) if the department determines that violations of the provisions of
 19 this chapter are regular and recurring, it may require forfeiture of the bond to the
 20 benefit of the state and arrange for distribution of the proceeds of the bond to the
 21 mobile home owners injured by the activities of the dealer or manufacturer, or to
 22 mobile home dealers injured by the activities of the manufacturer.

23 * **Sec. 70.** AS 45.55.935 is amended to read:

24 **Sec. 45.55.935. Hearings.** (a) The administrator shall adopt regulations,
 25 consistent with the provisions of this chapter **and with regulations adopted under**
 26 **AS 44.64.060**, governing administrative hearings conducted by the **office of**
 27 **administrative hearings (AS 44.64.010)** [ADMINISTRATOR OR A DESIGNEE OF
 28 THE ADMINISTRATOR] for the following:

29 (1) orders issued under AS 45.55.120, 45.55.900(d), or 45.55.920; in
 30 these instances, the administrator shall promptly send a notice of opportunity for
 31 hearing to the issuer of the securities and to all persons who have filed with the

1 department a notice of intention to sell the securities; and

2 (2) orders issued under AS 45.55.060; before the administrator enters
3 an order under AS 45.55.060, the administrator shall send to the person involved a
4 notice of opportunity for hearing; if the person involved is an agent or investment
5 adviser representative, then the administrator shall, in addition, notify the employing
6 broker-dealer, state investment adviser, federal covered adviser, or issuer.

7 (b) In conducting a hearing in accordance with (a) of this section, the
8 **administrative law judge** [ADMINISTRATOR] may issue a subpoena to compel the
9 attendance of any witness or party and to compel production of evidence.

10 * **Sec. 71.** AS 45.55.950(e) is amended to read:

11 (e) Every hearing in an administrative proceeding shall be public unless the
12 **administrative law judge**, [ADMINISTRATOR] in the exercise of discretion, grants
13 a request joined in by all the respondents that the hearing be conducted privately.

14 * **Sec. 72.** AS 45.57.020(a) is amended to read:

15 (a) An offeror may not make a takeover bid unless at least 20 days before the
16 bid the offeror files with the department and with the registered agent of the offeree
17 company a statement containing all the information required by (c) of this section and
18 either

19 (1) within 10 days following the filing no hearing has been ordered by
20 the department or requested by the offeree company; or

21 (2) a hearing has been ordered within that time and, **after** [UPON] the
22 hearing **conducted by the office of administrative hearings (AS 44.64.010)**, the
23 department has **decided** [ADJUDICATED] that the offeror proposed to make fair,
24 full, and effective disclosure to offerees of all information material to a decision to
25 accept or reject the offer.

26 * **Sec. 73.** AS 45.57.020(b) is amended to read:

27 (b) A hearing shall begin within 20 days of the date of filing of the statement,
28 and adjudication shall be made within 30 days of the filing unless extended by the
29 **administrative law judge** [DEPARTMENT] for the convenience of the parties or
30 protection of the offerees.

31 * **Sec. 74.** AS 46.15.065(c) is amended to read:

1 (c) The commissioner shall make investigations as necessary of rights asserted
 2 by declarations filed under this section and shall determine each existing appropriation
 3 and mail a summary of the determination to each person who has filed a declaration
 4 with respect to the specified area or source. Any person adversely affected by a
 5 determination may file with the commissioner a request for a hearing within 20 days
 6 of the date the notice is mailed. If a hearing is requested, the commissioner shall,
 7 **after consulting with the office of administrative hearings (AS 44.64.010)**, send a
 8 notice of the time and place of the hearing to each person who has filed a declaration.

9 * **Sec. 75.** AS 47.45.050 is amended to read:

10 **Sec. 47.45.050. Department hearing.** The Department of Health and Social
 11 Services may **arrange with the office of administrative hearings (AS 44.64.010) to**
 12 hold a [DEPARTMENTAL] hearing upon the request of an applicant or recipient who
 13 has been disqualified. Before this hearing the department shall by certified mail notify
 14 an applicant or recipient in plain and comprehensive language the exact reason for the
 15 disqualification. Form letters using only referral to state statutes or department
 16 regulations, or otherwise vague in detail, are not considered compliance by the
 17 department with this section.

18 * **Sec. 76.** The uncodified law of the State of Alaska is amended by adding a new section to
 19 read:

20 APPLICABILITY. (a) Sections 1 - 58, 60 - 66, 68 - 73, and 75 of this Act apply to
 21 administrative proceedings that begin on or after July 1, 2005.

22 (b) Sections 67 and 74 of this Act apply to administrative proceedings that begin on
 23 or after July 1, 2007.

24 * **Sec. 77.** The uncodified law of the State of Alaska is amended by adding a new section to
 25 read:

26 REGULATIONS. The chief administrative law judge and any agency affected by this
 27 Act may proceed to adopt regulations to implement this Act. A regulation adopted under this
 28 section takes effect under AS 44.62 (Administrative Procedure Act) but not before the
 29 effective date of the law implemented by the regulation.

30 * **Sec. 78.** The uncodified law of the State of Alaska is amended by adding a new section to
 31 read:

1 TRANSITION. (a) Litigation, hearings, investigations, and other proceedings
2 pending under a law amended or repealed by this Act, or in connection with functions
3 transferred by this Act, continue in effect and may be continued and completed,
4 notwithstanding a transfer, amendment, or repeal provided for in this Act.

5 (b) Certificates, orders, and regulations issued or adopted under authority of a law
6 amended or repealed by this Act remain in effect for the term issued, or until revoked,
7 vacated, or otherwise modified under the provisions of this Act.

8 (c) Contracts, rights, liabilities, and obligations created by or under a law amended or
9 repealed on July 1, 2005, by this Act and in effect on July 1, 2005, remain in effect.
10 Contracts, rights, liabilities, and obligations created by or under a law amended or repealed on
11 July 1, 2007, by this Act and in effect on July 1, 2007, remain in effect.

12 (d) Upon the initial appointment of the chief administrative law judge under
13 AS 44.64.010(c), added by sec. 2 of this Act, the chief administrative law judge and the
14 commissioner of administration, the commissioner of community and economic development,
15 the commissioner of revenue, and the governor's office shall identify administrative law
16 judges and support staff to be transferred to the office of administrative hearings on or after
17 January 1, 2005. A state employee who is transferred under this section from another agency
18 to the office of administrative hearings shall continue to be compensated at the same range
19 and step of the salary schedule in AS 39.27.011(a) that the employee was receiving before the
20 transfer, and qualifies for salary increases authorized under AS 39.27.011 and 39.27.022.

21 (e) Procedural regulations of an agency that refers an administrative hearing to the
22 office of administrative hearings shall apply to the hearing until regulations adopted under
23 AS 44.64.060(a), added by sec. 3 of this Act, become effective.

24 * **Sec. 79.** Sections 1, 2, 59, 77, and 78 of this Act take effect immediately under
25 AS 01.10.070(c).

26 * **Sec. 80.** Sections 67 and 74 of this Act take effect July 1, 2007.

27 * **Sec. 81.** Except as provided in secs. 79 and 80 of this Act, this Act takes effect July 1,
28 2005.