

**HOUSE CS FOR CS FOR SENATE BILL NO. 357(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/9/04

Referred: Today's Calendar

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the regulation of insurance, insurance licenses, qualifications of**  
2 **insurance producers, surplus lines, fraud investigations, electronic transactions, and**  
3 **compliance with federal law and national standards; and providing for an effective**  
4 **date."**

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

6 \* **Section 1.** AS 21.06.120(c) is amended to read:

7 (c) In place of an examination by the director, the director may accept a full  
8 report of the last recent examination of a foreign or alien insurer, issued [CERTIFIED  
9 TO] by the insurance supervisory official of another state, territory, commonwealth, or  
10 district of the United States. The director may require that the

11 (1) insurance regulatory agency conducting the examination be, at the  
12 time of the examination, accredited by the National Association of Insurance  
13 Commissioners;

14 (2) examination be performed under the supervision of an insurance

1 regulatory agency accredited by the National Association of Insurance  
 2 Commissioners; and the supervising examiner, after a review of the examination work  
 3 papers and report, state under oath that the examination and report comply with the  
 4 standards and procedures required by their accredited state insurance regulatory  
 5 agency; or

6 (3) examiner conducting the examination be employed by an insurance  
 7 regulatory agency accredited at the time of the examination by the National  
 8 Association of Insurance Commissioners and that the examiner, after review of the  
 9 examination work papers and report, state under oath that the examination and report  
 10 comply with the standards and procedures required by the accredited insurance  
 11 regulatory agency.

12 \* **Sec. 2.** AS 21.07.010(b) is amended to read:

13 (b) A contract between a participating health care provider and a managed  
 14 care entity that offers a group managed care plan may not contain a provision that

15 (1) has as its predominant purpose the creation of direct financial  
 16 incentives to the health care provider for withholding covered health care services that  
 17 are medically necessary; nothing in this paragraph shall be construed to prohibit a  
 18 contract between a participating health care provider and a managed care entity from  
 19 containing incentives for efficient management of the utilization and cost of covered  
 20 health care services;

21 (2) requires the provider to contract for all products that are currently  
 22 offered or that may be offered in the future by the managed care entity; **or** [AND]

23 (3) requires the health care provider to be compensated for health care  
 24 services performed at the same rate as the health care provider has contracted with  
 25 another managed care entity.

26 \* **Sec. 3.** AS 21.07.040(a) is amended to read:

27 (a) **Medical** [NOTWITHSTANDING AS 21.86.280, MEDICAL] and  
 28 financial information in the possession of a managed care entity regarding an applicant  
 29 or a current or former person covered by a managed care plan is confidential and is not  
 30 subject to public disclosure.

31 \* **Sec. 4.** AS 21.07.040(a) is amended by adding a new subsection to read:

1 (d) This section does not apply to a managed care entity that is subject to  
2 AS 21.36.

3 \* **Sec. 5.** AS 21.09 is amended by adding a new section to read:

4 **Sec. 21.09.095. Deposit requirement for workers' compensation insurers.**

5 (a) An insurer of workers' compensation shall maintain with an in-state bank  
6 approved by the director a separate deposit equal to the insurer's assumed Alaska  
7 workers' compensation assigned risk pool loss reserves, as determined by the  
8 designated plan administrator, for all years and ceded under the joint and several quota  
9 share reinsurance agreements through which workers' compensation insurers reinsure  
10 risks in the Alaska workers' compensation assigned risk pool. The deposit shall be  
11 maintained as secured collateral for the benefit of other insurers in their capacity as  
12 joint and several reinsurers of the Alaska workers' compensation assigned risk pool.

13 (b) Upon becoming an insolvent insurer as defined in AS 21.80.180 or upon  
14 otherwise failing to timely satisfy its Alaska workers' compensation assigned risk pool  
15 obligations, the insurer's deposit under this section shall be retained as secured  
16 collateral under the control of the director. The director shall make funds from the  
17 deposit available to the designated plan administrator as needed to fund the insurer's  
18 obligations to the Alaska workers' compensation assigned risk pool.

19 (c) The deposit required under this section must consist of cash and  
20 investment assets approved by the director under the regulatory authority in  
21 AS 21.21.420.

22 (d) In this section,

23 (1) "Alaska workers' compensation assigned risk pool" means the  
24 assigned risk pool established for workers' compensation under AS 21.39.155;

25 (2) "designated plan administrator" means the person appointed by the  
26 director to operate the assigned risk pool for workers' compensation.

27 \* **Sec. 6.** AS 21.09.110(a) is amended to read:

28 (a) To apply for an original certificate of authority, an insurer shall file with  
29 the director its application, accompanied by the applicable fees set under  
30 AS 21.06.250, showing its name, location of its home office, or principal office in the  
31 United States if an alien insurer, kinds of insurance to be transacted, date of

1 organization or incorporation, form of organization, state or country of domicile, and  
 2 additional information that the director may reasonably require, together with the  
 3 following documents, as applicable:

4 (1) if a foreign insurer, a copy of its corporate charter or articles of  
 5 incorporation, with all amendments certified by the public officer with whom the  
 6 originals are on file in the state or country of domicile;

7 (2) if a reciprocal insurer, copies of the power of attorney of its  
 8 attorney-in-fact and of its subscribers' agreement, if any, certified by its attorney-in-  
 9 fact;

10 (3) a copy of its financial statement as of the preceding December 31  
 11 and all subsequent quarterly financial statements, sworn to by at least two executive  
 12 officers of the insurer or certified by the public insurance supervisory official of the  
 13 insurer's state of domicile or of entry into the United States;

14 (4) a copy of the report of last examination, if any, made of the insurer,  
 15 **issued** [CERTIFIED] by the insurance supervisory official of its state of domicile or  
 16 of entry into the United States;

17 (5) appointment of the director under AS 21.09.180 [,] as its attorney  
 18 to receive service of legal process;

19 (6) if a foreign or alien insurer, a certificate of the public official  
 20 having supervision of insurance in its state or country of domicile, or state of entry  
 21 into the United States, showing that it is authorized to transact the kinds of insurance  
 22 proposed to be transacted in this state;

23 (7) if an alien insurer, a copy of the appointment and authority of its  
 24 United States manager, certified by its officer having custody of its records; and

25 (8) if a foreign insurer, a certificate as to deposit if it is to be tendered  
 26 under AS 21.09.090.

27 \* **Sec. 7.** AS 21.09.170 is repealed and reenacted to read:

28 **Sec. 21.09.170. Duration of suspension, insurer's obligations, and**  
 29 **reinstatements.** (a) Suspension of an insurer's certificate of authority shall be for a  
 30 fixed period of time determined by the director, or until the occurrence of a specific  
 31 event necessary for remedying the reasons for suspension. The director may modify,

1 rescind, or reverse a suspension under this section.

2 (b) During the period of suspension, the insurer

3 (1) may not solicit or write any new business in this state;

4 (2) shall file its annual statement and pay fees, licenses, and taxes  
5 required under this title; and

6 (3) may service its outstanding business in force in this state as if the  
7 certificate had continued in full force.

8 (c) If the suspension of the certificate of authority is for a fixed period of time  
9 and the certificate of authority has not been otherwise terminated, upon expiration of  
10 the suspension period, the insurer's certificate of authority shall be reinstated unless  
11 the director finds that the insurer is not in compliance with the requirements of this  
12 title. The director shall promptly notify the insurer of any reinstatement, and the  
13 insurer may not consider its certificate of authority reinstated until notified by the  
14 director. If not reinstated, the certificate of authority expires at the end of the  
15 suspension period or at the time the insurer fails to continue the certificate during the  
16 suspension period under (b) of this section, whichever event occurs first.

17 (d) If the suspension of the certificate of authority continues until the  
18 occurrence of a specific event and the certificate of authority has not been otherwise  
19 terminated, upon the presentation of evidence satisfactory to the director that the  
20 specific event has occurred, the insurer's certificate of authority shall be reinstated  
21 unless the director finds that the insurer is not in compliance with the requirements of  
22 this title. The director shall promptly notify the insurer of any reinstatement, and the  
23 insurer may not consider its certificate of authority reinstated until notified by the  
24 director. If satisfactory evidence as to the occurrence of the specific event has not  
25 been presented to the director within five years after the date of suspension, the  
26 certificate of authority expires five years from the date of suspension or upon failure  
27 of the insurer to continue the certificate during the suspension period under (b) of this  
28 section, whichever occurs first.

29 (e) The authority of the agents in this state to represent the insurer is reinstated  
30 upon reinstatement of the insurer's certificate of authority.

31 (f) The director shall promptly notify an insurer's agents in this state, as shown

1 by records of the director, of any reinstatement.

2 \* **Sec. 8.** AS 21.09.210(a) is amended to read:

3 (a) Each authorized insurer, and each formerly authorized insurer with respect  
4 to premiums written [RECEIVED] while an authorized insurer in this state, shall file  
5 with the director, on or before March 1 in each year, a report of all insurance business  
6 written or contracted in the state, with proper proportionate allocation of premium for  
7 the property, subjects, or risks in the state insured under policies or contracts covering  
8 property, subjects, or risks located or resident in more than one state, during the  
9 preceding year ending December 31. The report must show

10 (1) the amounts paid policyholders on losses;

11 (2) the total direct premium income including policy membership and  
12 other fees, premiums paid by application of dividends, refunds, savings coupon, and  
13 similar returns or credits to payment of premiums for new or additional or extended or  
14 renewed insurance, charges for payment of premium in installments, and all other  
15 consideration for insurance from all kinds and classes of insurance whether designated  
16 a premium or otherwise;

17 (3) the amounts paid policyholders as returned premiums;

18 (4) the amounts paid policyholders as dividends.

19 \* **Sec. 9.** AS 21.09.210(b) is amended to read:

20 (b) Each insurer, and each formerly authorized insurer with respect to  
21 premiums written [RECEIVED] while an authorized insurer in this state, shall pay a  
22 tax on the total direct premium written [INCOME RECEIVED] during the year  
23 ending on the preceding December 31 and paid for the insurance of property or risks  
24 resident or located in the state, other than wet marine and transportation insurance,  
25 after deducting from the total direct premium income the applicable cancellations,  
26 returned premiums, the unabsorbed portion of any deposit premium, all policy  
27 dividends, unabsorbed premiums refunded to policyholders, refunds, savings, savings  
28 coupons, and other similar returns paid or credited to policyholders with respect to  
29 their policies. Deductions may not be made of cash surrender value of policies.  
30 Considerations received on annuity contracts are not included in the direct premium  
31 income and are not subject to tax. The tax shall be paid to the director at least

1 annually but not more often than once each quarter on the dates specified by the  
 2 director. The method of payment must be by the electronic or other payment method  
 3 specified by the director. Except as provided under (m) of this section, the tax is  
 4 computed at the rate of

5 (1) for domestic and foreign insurers, except hospital and medical  
 6 service corporations, 2.7 percent;

7 (2) for hospital and medical service corporations, six percent of their  
 8 gross premiums less claims paid.

9 \* **Sec. 10.** AS 21.09.210(g) is repealed and reenacted to read:

10 (g) An insurer shall pay to the division a late payment fee of \$50 a month plus  
 11 five percent of the tax due each calendar month or part of a month during which the  
 12 insurer fails to pay the full amount of the tax, or a portion of the tax, and interest at the  
 13 rate of one percent of the tax due each calendar month or part of a month for the  
 14 period the insurer fails to pay the premium tax in this section or in AS 21.09.270. The  
 15 late payment fee, not including interest, may not exceed \$250 plus 25 percent of the  
 16 tax due. The tax payment shall be made in the form required by the director, or a  
 17 penalty shall be added to the tax of 25 percent of the tax due, not to exceed \$2,000,  
 18 with a minimum penalty of \$100. In addition to any other penalty provided by law, a  
 19 civil penalty may be assessed of not more than \$10,000 if an insurer wilfully violates  
 20 this section. The director may suspend or revoke the certificate of authority of an  
 21 insurer that fails to pay taxes, a penalty, or a late payment fee as required under this  
 22 section.

23 \* **Sec. 11.** AS 21.09.210(m) is amended to read:

24 (m) The tax imposed under this section for an individual [POLICY OF] life  
 25 insurance policy shall be computed at the rate of

26 (1) 2.7 percent of policy year premium up to \$100,000; and

27 (2) one-tenth of one percent of policy year premium exceeding  
 28 \$100,000.

29 \* **Sec. 12.** AS 21.09.210 is amended by adding a new subsection to read:

30 (o) Premiums on which taxes are paid under (m)(2) of this section are not  
 31 subject to AS 21.09.270.

1 \* **Sec. 13.** AS 21.09.310(b) is amended to read:

2 (b) An alien insurer may apply for a certificate of authority to use this state as  
3 a state of entry to transact the business of insurance in the United States by

4 (1) qualifying as an insurer licensed to do business in this state;

5 (2) establishing a trust under a trust agreement approved in writing by  
6 the director with a United States bank acceptable to the director in an amount not less  
7 than the greater of

8 (A) the minimum basic capital or basic guarantee surplus and  
9 additional maintained surplus required under AS 21.09.070; or

10 (B) the authorized control level risk based capital under  
11 AS 21.14;

12 (3) submitting a copy of its charter and bylaws, if any, currently in  
13 force, and other documents necessary to show the kind of business it is authorized to  
14 transact in its domiciliary jurisdiction; documents submitted under this paragraph must  
15 be attested to as accurate and complete by the insurance supervisory official in the  
16 domiciliary jurisdiction, and must include an English translation, if in a language other  
17 than English;

18 (4) submitting a full statement, subscribed and affirmed as true by two  
19 officers or equivalent responsible representatives in a manner that the director  
20 prescribes, of its financial condition as of the close of its latest fiscal year, showing its  
21 assets, liabilities, income disbursements, business transacted, and other facts required  
22 to be shown in its annual statement, as reported to the insurance supervisory official in  
23 its domiciliary jurisdiction; all documents submitted under this paragraph must include  
24 an English translation if in a language other than English;

25 (5) submitting to an examination under AS 21.06.120(b) at its  
26 principal office within the United States, and elsewhere if necessary, unless the  
27 director accepts a report of the insurer's recent examination and the report has been  
28 issued [CERTIFIED] by the insurance supervisory official of the insurer's domiciliary  
29 jurisdiction; and

30 (6) payment of fees established under AS 21.06.250.

31 \* **Sec. 14.** AS 21.12.020(a) is amended to read:

1 (a) Credit for reinsurance transactions shall be allowed a domestic ceding  
 2 insurer as either an asset or a deduction from liability on account of reinsurance ceded  
 3 **only with respect to cessions of a kind or class of business that the assuming**  
 4 **insurer is licensed or permitted to write or assume in its state of domicile or, in**  
 5 **the case of a United States branch of an alien assuming insurer, in the state**  
 6 **through which it is entered and licensed to transact insurance or reinsurance and**  
 7 only if the reinsurance is ceded to an

8 (1) assuming insurer that is licensed to transact insurance or  
 9 reinsurance in this state;

10 (2) assuming insurer that is accredited as a reinsurer in this state; an  
 11 accredited reinsurer is one that

12 (A) files evidence of submission to this state's jurisdiction,  
 13 submits to this state's authority to examine its books and records under  
 14 AS 21.06.120, is licensed to transact insurance or reinsurance in at least one  
 15 state that is accredited by the National Association of Insurance  
 16 Commissioners, or, in the case of a United States branch of an alien admitted  
 17 insurer, is entered through and licensed to transact insurance or reinsurance in  
 18 at least one state that is accredited by the National Association of Insurance  
 19 Commissioners;

20 (B) maintains at least \$20,000,000 in policyholder surplus and  
 21 whose accreditation has not been denied by the director within 90 days **after**  
 22 **[OF]** application to the director, or maintains less than \$20,000,000 in  
 23 policyholder surplus and whose application for accreditation has been  
 24 approved by the director; and

25 (C) files annually with the director a copy of the reinsurer's  
 26 annual financial statement filed with the insurance department of the  
 27 reinsurer's state of domicile or state of entry and a copy of the reinsurer's most  
 28 recent audited financial statement;

29 (3) assuming insurer that is domiciled in a state, or, in the case of a  
 30 United States branch of an alien assuming insurer, is entered through a state accredited  
 31 by the National Association of Insurance Commissioners that employs standards

1 regarding credit for reinsurance ceded substantially similar to those applicable under  
 2 (1) and (2) of this subsection, the assuming insurer maintains a policyholder surplus of  
 3 at least \$20,000,000, and the assuming insurer submits to the authority of this state to  
 4 examine its books and records; the surplus requirements in this paragraph do not apply  
 5 to reinsurance ceded and assumed under a pooling arrangement among insurers in the  
 6 same holding company system;

7 (4) assuming alien insurer that

8 (A) maintains a trust fund in a qualified United States financial  
 9 institution for the payment of the valid claims of its United States  
 10 policyholders and ceding insurers, and their assigns and successors in interest,  
 11 that conforms to the following requirements:

12 (i) the trust **and each amendment to the trust** shall be  
 13 established in a form approved by **the insurance supervisory official**  
 14 **of the state where the trust is domiciled or the insurance**  
 15 **supervisory official of another state who, under the terms of the**  
 16 **trust instrument, has accepted responsibility for regulatory**  
 17 **oversight of the trust; the form of the trust and each trust**  
 18 **amendment shall be filed with the insurance supervisory official of**  
 19 **every state in which the beneficiaries of the trust are domiciled**  
 20 [THE DIRECTOR]; the trust instrument must provide that contested  
 21 claims are valid and enforceable upon the final order of any court of  
 22 competent jurisdiction in the United States; the trust shall vest legal  
 23 title to its assets in the trustees of the trust for its United States  
 24 policyholders and ceding insurers, their assigns, and successors in  
 25 interest; the trust and the assuming insurer are subject to examination as  
 26 determined by the director, **and the assuming insurer shall submit to**  
 27 **examination of its books and records by the director and bear the**  
 28 **expense of examination**; the trust must remain in effect for so long as  
 29 the assuming insurer has outstanding liabilities due under the  
 30 reinsurance agreements subject to the trust;

31 (ii) on or before March 1 of each year the trustees shall

1 report in writing to the director on the balance of the trust and list the  
 2 trust's investments at the end of the preceding year, and shall certify the  
 3 date of termination of the trust, if so planned, or certify that the trust  
 4 does not expire before the following December 31;

5 (iii) in the case of a single assuming insurer, the trust  
 6 shall consist of trust money representing the assuming insurer's  
 7 liabilities attributable to business written in the United States and, in  
 8 addition, include a trust surplus of not less than \$20,000,000; the single  
 9 assuming insurer shall make available to the director an annual  
 10 certification of the insurer's solvency by an independent certified public  
 11 accountant or an accountant holding a substantially equivalent  
 12 designation as determined by the director;

13 (iv) in the case of a group, including incorporated and  
 14 individual unincorporated insurers, the trust shall consist of trust money  
 15 representing the group's liabilities attributable to business **ceded by the**  
 16 **United States domiciled ceding insurers** [WRITTEN IN THE  
 17 UNITED STATES] and, in addition, include a trust surplus not less  
 18 than \$100,000,000 **held jointly for the benefit of the United States**  
 19 **domiciled ceding insurers or any member of the group for all years**  
 20 **of account**; the incorporated members of the group may not be engaged  
 21 in any business other than underwriting as a member of the group and  
 22 are subject to the same level of solvency regulation and control by the  
 23 group's domiciliary regulator as are the unincorporated members;  
 24 **within 90 days after its financial statements are due to be filed with**  
 25 **the group's domiciliary regulator**, the group shall make available to  
 26 the director an annual certification of the solvency of each insurer by  
 27 the group's domiciliary regulator **or, if the certification is unavailable,**  
 28 **financial statements, prepared** [AND] by an independent certified  
 29 public accountant, or an accountant holding a substantially equivalent  
 30 designation as determined by the director, **for each underwriter**  
 31 **member of the group**;

1 (v) in the case of a group of incorporated insurers under  
 2 common administration that complies with the reporting requirements  
 3 contained in (ii) of this subparagraph, that has continuously transacted  
 4 an insurance business outside the United States for at least three years  
 5 immediately before making application for accreditation, that submits  
 6 to this state's authority to examine its books and records and bears the  
 7 expense of the examination, and that has aggregate policyholders'  
 8 surplus of \$10,000,000,000, the trust shall be in an amount equal to the  
 9 group's several liabilities attributable to business ceded by United  
 10 States **domiciled** ceding insurers to a member of the group under  
 11 reinsurance contracts issued in the name of the group, and the group  
 12 shall maintain a joint trustee surplus, of which \$100,000,000 shall be  
 13 held jointly for the benefit of United States **domiciled** ceding insurers  
 14 of a member of the group as additional security for the group's  
 15 liabilities, and, **within 90 days after its financial statements are due**  
 16 **to be filed with the group's domiciliary regulator**, each member of  
 17 the group shall make available to the director an annual certification of  
 18 the **underwriter** member's solvency by the member's domiciliary  
 19 regulator and **financial statement of each underwriter member**  
 20 **prepared by its** [THE MEMBER'S] independent certified public  
 21 accountant, or an accountant holding a substantially equivalent  
 22 designation as determined by the director; and

23 (B) reports annually to the director information substantially  
 24 the same as that required to be reported on the National Association of  
 25 Insurance Commissioners' annual statement form by licensed insurers to  
 26 enable the director to determine the sufficiency of the trust fund;

27 (5) assuming insurer that does not meet the requirements of (1) - (4) of  
 28 this subsection, but only with respect to the insurance of risks located in jurisdictions  
 29 where the reinsurance is required by applicable law or regulation of that jurisdiction.

30 \* **Sec. 15.** AS 21.12.020(c) is amended to read:

31 (c) A reduction from liability, for reinsurance ceded to an assuming insurer

1 not meeting the requirements of (a) of this section, shall be allowed in an amount not  
 2 exceeding the liabilities carried by the ceding insurer. The reduction shall be equal to  
 3 the amount of money held by or on behalf of the ceding insurer, including money held  
 4 in trust for the ceding insurer, under a reinsurance contract with the assuming insurer  
 5 as security for the payment of obligations under it, if the security is held in the United  
 6 States subject to withdrawal solely by, and under the exclusive control of, the ceding  
 7 insurer, or, in the case of a trust, held in a qualified United States financial institution.  
 8 The security must be in the form of

9 (1) cash;

10 (2) securities listed by the Securities Valuation Office of the National  
 11 Association of Insurance Commissioners that qualify as admitted assets under  
 12 AS 21.21;

13 (3) clean, irrevocable, unconditional letters of credit that contain an  
 14 evergreen clause issued or confirmed by a qualified United States financial institution  
 15 not later than December 31 in the year for which filing is made, and in the possession  
 16 of, or in trust for, the ceding insurer on or before the filing date of the ceding  
 17 insurer's annual statement; letters of credit meeting applicable standards of issuer  
 18 acceptability as of the dates of their issuance or confirmation shall, notwithstanding  
 19 the issuing or confirming institution's subsequent failure to meet applicable standards  
 20 of issuer acceptability, continue to be acceptable as security until their expiration,  
 21 extension, renewal, modification, or amendment, whichever occurs first; or

22 (4) other security acceptable to and approved in advance by the  
 23 director.

24 \* **Sec. 16.** AS 21.12 is amended by adding a new section to read:

25 **Sec. 21.12.025. Assumption reinsurance.** (a) A nondomestic admitted  
 26 insurer may not carry out an agreement of assumption reinsurance with a nonadmitted  
 27 insurer that would transfer Alaska policyholders unless

28 (1) the nonadmitted insurer applies for and obtains a certificate of  
 29 authority from the director; or

30 (2) the admitted insurer files the assumption agreement with the  
 31 director and obtains approval to apply the assumption agreement to Alaska policies or

1 certificates.

2 (b) The director shall approve an assumption agreement involving the  
3 assumption of Alaska insurance business by a nonadmitted insurer if

4 (1) the ceding insurer is in supervision, conservation, or liquidation  
5 and the assuming insurer is in good standing in its state of domicile; or

6 (2) approval would be in the public interest of the Alaska  
7 policyholders.

8 \* **Sec. 17.** AS 21.14.010 is amended by adding a new subsection to read:

9 (f) The requirements of this chapter supplement other provisions of this title  
10 and do not preclude or limit other powers or duties of the director.

11 \* **Sec. 18.** AS 21.22.030(a) is amended to read:

12 (a) The director shall approve a merger or other acquisition of control referred  
13 to in AS 21.22.010 unless, after a public hearing, the director finds that

14 (1) after the change of control, the domestic insurer referred to in  
15 AS 21.22.010 would not be able to satisfy the requirements for the issuance of a  
16 license to write the line or lines of insurance for which it is presently licensed;

17 (2) the effect of the merger or other acquisitions of control would be  
18 substantially to lessen competition in insurance in this state or tend to create a  
19 monopoly in this state;

20 (3) the financial condition of an acquiring party is such that it might  
21 jeopardize the financial stability of the insurer or prejudice the interest of its  
22 policyholders or the interests of any remaining securityholders who are unaffiliated  
23 with the acquiring party;

24 (4) the terms of the offer, request, invitation, agreement, or acquisition  
25 referred to in AS 21.22.010 are unfair and unreasonable to the securityholders of the  
26 insurer;

27 (5) the plans or proposals that the acquiring party has to liquidate the  
28 insurer, sell its assets, or consolidate or merge it with any person, or to make any other  
29 material change in its business or corporate structure or management, are unfair and  
30 unreasonable to policyholders of the insurer and not in the public interest; [OR]

31 (6) the competence, experience, and integrity of those persons who

1 would control the operation of the insurer are such that it would not be in the interest  
 2 of policyholders of the insurer and of the public to permit the merger or other  
 3 acquisition of control; or

4 **(7) the acquisition is likely to be hazardous or prejudicial to the**  
 5 **insurance-buying public.**

6 \* **Sec. 19.** AS 21.27.060(d) is amended to read:

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

8 (1) for a limited license under **AS 21.27.150(a)(1), (4), or (5)**  
 9 [AS 21.27.150(a)(1), (5), OR (6)]; or

10 (2) who, at any time within the one-year period immediately preceding  
 11 the date the current pending application is received by the division, had been licensed  
 12 in good standing in this state under a license requiring substantially similar  
 13 qualifications as required by the license applied for.

14 \* **Sec. 20.** AS 21.27.115 is amended to read:

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

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

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

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

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

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

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

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

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

3 (7) limited lines credit insurance;

4 (8) crop insurance coverage for damage to crops from unfavorable  
5 weather conditions, fire or lightning, flood, hail, insect infestation, disease, or  
6 other yield-reducing conditions or perils provided by the private insurance  
7 market, or that is subsidized by the Federal Crop Insurance Corporation,  
8 including multiperil crop insurance;

9 (9) surety insurance as defined in AS 21.12.080;

10 (10) any insurance for which a limited lines license may be issued  
11 under AS 21.27.150.

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

13 (b) A firm may not be licensed as an insurance producer, managing general  
14 agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus  
15 lines broker, or independent adjuster, or transact insurance unless each individual  
16 employed as an insurance producer, managing general agent, surplus lines broker,  
17 [TRAINEE INSURANCE PRODUCER,] trainee independent adjuster, or independent  
18 adjuster by the firm is licensed as an individual in the firm. Each compliance officer  
19 of the firm shall be licensed as an individual in the firm for a specific line and class of  
20 authority. If there is more than one compliance officer, the combined authority of all  
21 compliance officers shall cover all the powers conferred by the firm's license.

22 \* **Sec. 22.** AS 21.27.150(a) is amended to read:

23 (a) The director may issue a

24 (1) travel insurance limited producer license to a person who sells  
25 transportation tickets of a common carrier of persons or property, who is appointed  
26 under AS 21.27.100 [, AND WHOSE SOLE PURPOSE IS TO BE APPOINTED BY  
27 AND ACT AS AN AGENT] for transportation ticket policies of health insurance,  
28 baggage insurance on personal effects, and trip cancellation or trip interruption  
29 insurance;

30 (2) title insurance limited producer license to a person whose place of  
31 business is located in this state and whose sole purpose is to be appointed by and act

1 on behalf of a title insurer;

2 (3) bail bond limited producer license to a person **who is** [WHOSE  
3 SOLE PURPOSE IS TO BE] appointed by and **acts** [ACT] on behalf of a surety  
4 insurer pertaining to bail bonds;

5 (4) [FRATERNAL BENEFIT SOCIETY LIMITED PRODUCER  
6 LICENSE TO A PERSON WHOSE SOLE PURPOSE IS TO BE APPOINTED BY  
7 AND ACT ON BEHALF OF A FRATERNAL BENEFIT SOCIETY LICENSED  
8 UNDER AS 21.84;

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

13 (A) rents to others, without operators,

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

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

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

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

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

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

30 (iii) insurance against medical, hospital, surgical, and  
31 disability benefits to an injured person and funeral and death benefits to

1 dependents, beneficiaries, or personal representatives of a deceased  
 2 person if the insurance is issued as incidental coverage with or  
 3 supplemental to liability insurance and arises out of the use of a vehicle  
 4 rented from the licensee during the term of the rental agreement;

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

10 (v) towing and roadside assistance with respect to  
 11 vehicles rented from the licensee during the term of the rental  
 12 agreement; and

13 (vi) other insurance as may be authorized by regulation  
 14 by the director;

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

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

20 (5) [(6)] nonresident limited producer license to a person; a license that  
 21 the director issues under this paragraph grants the same scope of authority as a limited  
 22 lines producer license issued to the person by the person's home state;

23 (6) [(7)] credit insurance limited producer license to a person who sells  
 24 limited lines credit insurance;

25 (7) [(8)] miscellaneous limited producer license to a person who  
 26 transacts insurance in this state that restricts the person's authority to less than the total  
 27 authority for a line of authority described in AS 21.27.115(1) - (6), (8), and (9).

28 \* **Sec. 23.** AS 21.27.360(h) is amended to read:

29 (h) A licensee who transacts the business of insurance under a motor vehicle  
 30 rental agency limited producer license under AS 21.27.150(a)(6) [AS 21.27.150(a)(7)]  
 31 is not required to hold money collected from a person for the purchase of rental motor

1 vehicle insurance coverage in a separate fiduciary account if

2 (1) the fees for the rental insurance coverage are itemized and are a  
3 part of a rental motor vehicle transaction; and

4 (2) the insurer has given written consent that the money need not be  
5 segregated from other money received by the licensee and the consent is signed by an  
6 officer of the insurer.

7 \* **Sec. 24.** AS 21.27.380(e) is amended to read:

8 (e) A trainee license issued to an [INSURANCE PRODUCER OR AN]  
9 independent adjuster shall be for a term not to exceed 12 months and may not be  
10 renewed.

11 \* **Sec. 25.** AS 21.27.590 is repealed and reenacted to read:

12 **Sec. 21.27.590. Managing general agents qualifications.** In addition to the  
13 general qualifications under AS 21.27.020, the director may require that a managing  
14 general agent maintain

15 (1) a bond in an amount acceptable to the director and that requires the  
16 managing general agent to conduct business under this title; and

17 (2) an errors and omissions insurance policy acceptable to the director.

18 \* **Sec. 26.** AS 21.27.670 is repealed and reenacted to read:

19 **Sec. 21.27.670. Reinsurance intermediary broker qualifications.** In  
20 addition to the general qualifications under AS 21.27.020, the director may require  
21 that a reinsurance intermediary broker maintain

22 (1) a bond in an amount acceptable to the director in favor of insurers  
23 and this state that requires the reinsurance intermediary broker to conduct business  
24 under this title; and

25 (2) an errors and omissions insurance policy acceptable to the director.

26 \* **Sec. 27.** AS 21.27.730 is repealed and reenacted to read:

27 **Sec. 21.27.730. Reinsurance intermediary manager qualifications.** In  
28 addition to the general qualifications under AS 21.27.020, the director may require  
29 that a reinsurance intermediary manager maintain

30 (1) a bond in an amount acceptable to the director that requires the  
31 reinsurance intermediary manager to conduct business under this title; and

1 (2) an errors and omissions insurance policy acceptable to the director.

2 \* **Sec. 28.** AS 21.27.790 is amended to read:

3 **Sec. 21.27.790. Surplus lines broker qualifications.** In addition to the  
4 general qualifications under AS 21.27.020, to qualify for issuance or for renewal of a  
5 surplus lines broker license, an applicant or licensee shall

6 (1) **be licensed as either an insurance producer or managing**  
7 **general agent for property and casualty lines of authority** [HAVE A MINIMUM  
8 TWO YEARS ACTIVE WORKING EXPERIENCE WITHIN THE PREVIOUS  
9 FIVE CALENDAR YEARS AS AN INSURANCE PRODUCER, MANAGING  
10 GENERAL AGENT, REINSURANCE INTERMEDIARY BROKER,  
11 REINSURANCE INTERMEDIARY MANAGER, INDEPENDENT ADJUSTER, OR  
12 UNDERWRITER OR CLAIMS ADJUSTER EMPLOYEE OF AN INSURER AND,  
13 IN THE DIRECTOR'S OPINION, EXHIBIT THE ABILITY TO COMPETENTLY  
14 PERFORM THE RESPONSIBILITIES OF THE LICENSE APPLIED FOR];

15 (2) if required by the director by regulation, maintain a bond as  
16 described in AS 21.27.190 in an amount acceptable to the director [WITH THE  
17 CONDITIONS] that **requires** the surplus lines broker **to** conduct business under [THE  
18 PROVISIONS OF] this title, promptly remit the taxes and fees **required**  
19 [PROVIDED] by law, return premiums promptly when due, and pay proper losses  
20 promptly;

21 (3) if the director requires, maintain an errors and omissions insurance  
22 policy acceptable to the director.

23 \* **Sec. 29.** AS 21.34.020 is amended to read:

24 **Sec. 21.34.020. Placement of surplus lines insurance.** Insurance other than  
25 reinsurance, wet marine and transportation insurance, insurance independently  
26 procured, life insurance, health insurance **except as provided in AS 21.34.035**, and  
27 annuity contracts may be procured through a surplus lines broker licensed under  
28 AS 21.27 from nonadmitted insurers if

29 (1) the insurer is an eligible surplus lines insurer;

30 (2) the full amount, kind, or class of insurance cannot be obtained from  
31 insurers who are admitted to do business in this state;

1 (3) the producing broker has conducted and documented a diligent  
 2 search among insurers who are admitted to transact business in this state and are  
 3 actually writing the particular kind or class of insurance required by the client in this  
 4 state;

5 (4) the director authorizes an exception to (2) of this section by  
 6 regulation or by written authorization for an individual placement upon written request  
 7 by the broker; and

8 (5) all other requirements of this chapter are met.

9 \* **Sec. 30.** AS 21.34.020 is amended by adding a new subsection to read:

10 (b) In this section,

11 (1) "amount" means limit, sublimit, retention, and broadening or  
 12 restrictive endorsement;

13 (2) "class" means rating class;

14 (3) "kind" means one or more kinds of insurance as defined in  
 15 AS 21.12.

16 \* **Sec. 31.** AS 21.34 is amended by adding a new section to read:

17 **Sec. 21.34.035. Health care insurance.** (a) Except for a multiple employer  
 18 welfare arrangement, health care insurance may be placed in and written by a  
 19 nonadmitted insurer if

20 (1) the director finds it is in the best interest of the public and issues an  
 21 order to that effect; and

22 (2) the insurance is in compliance with this chapter.

23 (b) The rates and rating methods for health care insurance placed and written  
 24 under this section are subject to AS 21.87.190. The surplus lines broker shall make  
 25 the filings required under AS 21.87.190 and maintain the records and accounts as  
 26 required under AS 21.87.230.

27 (c) Health care insurance may not be procured under this chapter

28 (1) for the purpose of obtaining a lower premium rate than acceptable  
 29 by an authorized insurer; or

30 (2) for obtaining a competitive advantage.

31 (d) Insurance placed in or written by a nonadmitted insurer and the activities

1 of the surplus lines broker relating to that transaction are subject to this title.

2 (e) In this section, "health care insurance" has the meaning given in  
3 AS 21.12.050(b).

4 \* **Sec. 32.** AS 21.34.050 is amended to read:

5 **Sec. 21.34.050. Listing eligible surplus lines insurers.** In addition to  
6 meeting the requirements of AS 21.34.040, a nonadmitted insurer shall be an eligible  
7 surplus lines insurer if it **pays to the division or surplus lines association any fee**  
8 **required by regulation and** appears on the most recent list of eligible surplus lines  
9 insurers published by the director or by the surplus lines association when approved by  
10 the director. The list is to be published at least semi-annually. Nothing in this section  
11 requires the director or the surplus lines association to place or maintain the name of a  
12 nonadmitted insurer on the list of eligible surplus lines insurers. **An annual fee**  
13 **required under this section and adopted by regulation shall be paid before July 1**  
14 **of each year.**

15 \* **Sec. 33.** AS 21.34.080 is amended by adding a new subsection to read:

16 (d) A transaction, as used in this section, is any placement of coverage as well  
17 as changes in coverage that result in an increase or decrease of premiums, taxes, or  
18 fees.

19 \* **Sec. 34.** AS 21.34.100 is repealed and reenacted to read:

20 **Sec. 21.34.100. Evidence of insurance.** (a) When surplus lines insurance is  
21 placed, the surplus lines broker shall promptly deliver to the named insured or the  
22 producing broker the policy or, if the policy is not then available, a certificate, cover  
23 note, binder, or other evidence of insurance. The certificate, cover note, binder, or  
24 other evidence of insurance for the named insured shall be executed by the surplus  
25 lines broker and must contain a summary of all material facts that would regularly be  
26 included in the policy, the description and location of the subject of insurance, a  
27 general description of the coverages of the insurance, the premium and rate charged  
28 and taxes to be collected from the insured, the name and address of the insured, the  
29 name of each surplus lines insurer and the percentage of the entire risk assumed by  
30 each, the name of the surplus lines broker, and the license number of the surplus lines  
31 broker.

1 (b) A surplus lines broker may not issue or deliver evidence of insurance or  
 2 purport to insure or represent that insurance will be or has been written by an eligible  
 3 surplus lines insurer, or a nonadmitted insurer under AS 21.34.060, unless the surplus  
 4 lines broker has authority from the insurer to cause the risk to be insured or has  
 5 received information from the insurer in the regular course of business that the  
 6 insurance has been granted.

7 (c) If, after delivery of evidence of insurance, there is a change in the identity  
 8 of the insurers or the percentage of the risk assumed by an insurer or another material  
 9 change in coverage from that stated in the surplus lines broker's original evidence of  
 10 insurance or in other material concerning the evidenced insurance, the surplus lines  
 11 broker shall promptly issue and deliver to the insured or the producing broker an  
 12 appropriate substitute for or endorsement of the original document, accurately  
 13 showing the current status of the coverage and the insurer's responsibility.

14 (d) A surplus lines broker who fails to comply with this section is subject to  
 15 the penalties in AS 21.34.230.

16 (e) Every evidence of insurance negotiated, placed, or procured under this  
 17 chapter issued by a surplus lines broker must bear the name of the surplus lines broker,  
 18 which may not be covered, concealed, or obscured by the producing broker, and the  
 19 following legend in at least 10-point type: "This is evidence of insurance procured  
 20 and developed under the Alaska Surplus Lines Law, AS 21.34. It is not covered by the  
 21 Alaska Insurance Guaranty Association Act, AS 21.80."

22 (f) Every certificate issued by the producing broker or other licensee as  
 23 evidence of insurance negotiated, placed, or procured under this chapter must bear the  
 24 name of the surplus lines broker, which may not be covered, concealed, or obscured  
 25 by the producing broker, and the following legend in at least 10-point type: "This is  
 26 evidence of insurance procured and developed under the Alaska Surplus Lines Law,  
 27 AS 21.34. It is not covered by the Alaska Insurance Guaranty Association Act,  
 28 AS 21.80."

29 \* **Sec. 35.** AS 21.34.110(a) is repealed and reenacted to read:

30 (a) A contract of insurance placed by a surplus lines broker under this chapter  
 31 is not binding upon the insured and a premium charged is not due and payable until

1 (1) the surplus lines broker has notified the insured in writing, a copy  
 2 of which shall be maintained by the surplus lines broker with the records of the  
 3 contract, available for examination, that the insurer with whom the surplus lines  
 4 broker places the insurance does not hold a certificate of authority issued by this state  
 5 and is not subject to its supervision, and, in the event of the insolvency of the surplus  
 6 lines insurer, losses will not be covered under AS 21.80 (Alaska Insurance Guaranty  
 7 Association Act); or

8 (2) the producing broker has notified the insured and the surplus lines  
 9 broker in writing, a copy of which shall be maintained by the producing broker and the  
 10 surplus lines broker with the records of the contract, available for examination, that the  
 11 insurer with whom the surplus lines is placed does not hold a certificate of authority  
 12 issued by this state, is not subject to this state's supervision, and, in the event of the  
 13 insolvency of the surplus lines insurer, losses will not be covered under AS 21.80  
 14 (Alaska Insurance Guaranty Association Act).

15 \* **Sec. 36.** AS 21.34.170(a) is amended to read:

16 (a) A surplus lines broker shall file with the director on or before the end of  
 17 each month, on forms prescribed by the director, a verified report [IN DUPLICATE]  
 18 of all surplus lines insurance, by type of insurance as required to be reported in the  
 19 annual statement that must be filed with the director by admitted insurers. The report  
 20 must include all surplus lines insurance transactions during the preceding calendar  
 21 month showing the aggregate gross premiums written, the aggregate return premiums,  
 22 the amount of aggregate tax remitted to this state, and the amount of aggregate tax  
 23 remitted to each other state for which an allocation is made under AS 21.34.150.

24 \* **Sec. 37.** AS 21.34.170 is amended by adding a new subsection to read:

25 (c) The surplus lines broker shall pay a penalty for late filing of the report,  
 26 according to the rate established in regulations adopted by the director.

27 \* **Sec. 38.** AS 21.34.180(a) is amended to read:

28 (a) Gross premiums written [CHARGED], less any return premium, for  
 29 surplus lines insurance are subject to a premium receipts tax as outlined in  
 30 AS 21.09.210, which shall be collected by the surplus lines broker as specified by the  
 31 director, in addition to the full amount of the gross premium written [CHARGED] by

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

9 \* **Sec. 39.** AS 21.34.180(f) is repealed and reenacted to read:

10 (f) A surplus lines broker shall pay to the division a late payment fee of \$50 a  
 11 month plus five percent of the tax due each calendar month or part of a month during  
 12 which the broker fails to pay the full amount of the tax or a portion of the tax and  
 13 interest at the rate of one percent of the tax due each calendar month or part of a  
 14 month for the period the broker fails to pay the tax. The late payment fee, not  
 15 including interest, may not exceed \$250 plus 25 percent of the tax due. The tax  
 16 payment shall be made in the form required by the director, or a penalty shall be added  
 17 to the tax equal to 25 percent of the tax due, not to exceed \$2,000, with a minimum  
 18 penalty of \$100. In addition to any other penalty provided by law, if the provisions of  
 19 this section are wilfully violated, a civil penalty may be assessed of not more than  
 20 \$10,000. The director may suspend or revoke the license of a broker that fails to pay  
 21 its taxes, a penalty, or a late payment fee required under this section.

22 \* **Sec. 40.** AS 21.36.235(c) is amended to read:

23 (c) This section does not apply to workers' compensation insurance or to  
 24 business or commercial policies issued under AS 21.34.

25 \* **Sec. 41.** AS 21.36.240 is amended to read:

26 **Sec. 21.36.240. Failure to renew.** An insurer may only fail to renew a  
 27 personal insurance policy on the policy's annual anniversary. An insurer may not fail  
 28 to renew a policy unless a written notice of nonrenewal is mailed to the named insured  
 29 as required by AS 21.36.260 at least 20 days for a personal insurance policy, and at  
 30 least 45 days for a business or commercial insurance policy, before the expiration date  
 31 of the policy or of the anniversary date of a policy written for a term longer than one

1 year or with no fixed expiration date. If notice of nonrenewal is not given as required  
 2 by this section, the existing policy shall continue until the insurer provides notice for  
 3 the time period required by this section for that policy. This section does not apply

- 4 (1) if the insurer has in good faith manifested its willingness to renew;
- 5 (2) in case of nonpayment of premium for the expiring policy; [OR]
- 6 (3) if the insured fails to pay the premium as required by the insurer for

7 renewal; **or**

8 **(4) to business or commercial policies placed under AS 21.34.**

9 \* **Sec. 42.** AS 21.36.365(a) is amended to read:

10 (a) A person is not liable for civil damages for filing a report with or  
 11 furnishing other information whether written or oral, concerning suspected,  
 12 anticipated, or completed fraudulent acts to

- 13 (1) law enforcement officials, their agents, and employees;
- 14 (2) the National Association of Insurance Commissioners, the division

15 of insurance, an agency in a state that regulates insurance, or an organization  
 16 established to detect and prevent fraudulent insurance acts, their agents, employees, or  
 17 designees;

18 **(3) a person involved in the prevention and detection of fraudulent**  
 19 **insurance acts or that person's employees, agents, or representatives.**

20 \* **Sec. 43.** AS 21.39.020(b) is amended to read:

21 (b) This chapter does not apply to

22 (1) reinsurance, other than joint reinsurance to the extent stated in  
 23 AS 21.39.110;

24 (2) health insurance;

25 (3) insurance of vessels or craft, their cargoes, marine builders' risks,  
 26 marine protection and indemnity, or other risks commonly insured under marine, as  
 27 distinguished from inland marine insurance policies;

28 (4) insurance against loss of or damage to aircraft or against liability,  
 29 other than workers' compensation and employer's liability, arising out of the  
 30 ownership, maintenance, or use of aircraft; or, to insurance of hulls of aircraft,  
 31 including their accessories and equipment;

1 **(5) insurance written under AS 21.34, except as provided in**  
 2 **AS 21.34.030(b).**

3 \* **Sec. 44.** AS 21.39.155 is amended by adding a new subsection to read:

4 (d) Rates for the assigned risk pool shall be established and maintained at a  
 5 level that will ensure, to the greatest extent practicable, that the assigned risk pool will  
 6 operate on a self-funding financial basis. For purposes of this subsection, "operate on  
 7 a self-funding financial basis" means that the assigned risk pool shall charge rates  
 8 based upon a combination of approved voluntary loss costs, administrative expenses,  
 9 servicing carrier allowances, catastrophe and other reinsurance expenses,  
 10 contingencies, and all other factors in AS 21.39.030, so as to be self-funding during  
 11 any consecutive three-year period, on a moving average basis.

12 \* **Sec. 45.** AS 21.42.120(f) is amended to read:

13 (f) This section does not apply to a type of insurance subject to AS 21.57 **or to**  
 14 **policies issued under AS 21.34.**

15 \* **Sec. 46.** AS 21.66.020 is amended to read:

16 **Sec. 21.66.020. Deposits in guaranty fund. In addition to the deposit**  
 17 **required in AS 21.66.010(b), within** [WITHIN] 30 days after the filing of each  
 18 annual statement, the title insurance company shall deposit with the director a sum  
 19 equal to 10 percent of the premiums **written** [RECEIVED BY IT] during the  
 20 preceding year covering property in this state, as shown by the annual statement, until  
 21 the accumulated deposits, added to the sums originally deposited with the director, as  
 22 provided in this chapter, total \$750,000, but the title insurance company may not be  
 23 required to deposit more than \$50,000 in any one year. **The purpose of this deposit**  
 24 **is to provide a guaranty fund for payment of claims under title guaranties and**  
 25 **policies issued in Alaska in the event of the insolvency of the title insurer.**

26 \* **Sec. 47.** AS 21.66.110(c) is repealed and reenacted to read:

27 (c) A title insurance company shall pay to the division a late payment fee of  
 28 \$50 a month plus five percent of tax due each calendar month or part of a month  
 29 during which the insurer fails to pay the full amount of the tax or a portion of the tax  
 30 and interest at the rate of one percent of the tax due each calendar month or part of a  
 31 month for the period the insurer fails to pay the premium tax. The late payment fee,

1 not including interest, may not exceed \$250 plus 25 percent of the tax due. The tax  
 2 payment shall be made in the form required by the director or a penalty shall be added  
 3 to the tax equal to 25 percent of the tax due, not to exceed \$2,000, with a minimum  
 4 penalty of \$100. In addition to any other penalty provided by law, if the provisions of  
 5 this section are wilfully violated, then a civil penalty may be assessed of not more than  
 6 \$10,000. The director may suspend or revoke the certificate of authority of a title  
 7 insurance company that fails to pay its taxes, a penalty, or a late payment fee as  
 8 required under this section.

9 \* **Sec. 48.** AS 21.69.390(b) is amended to read:

10 (b) A person determined by the director, following an appropriate hearing as  
 11 provided in AS 21.06.170 - 21.06.230, to have removed or attempted to remove any  
 12 records from the place where they are required to be kept under (a) or (d) of this  
 13 section with the intent to wrongfully remove them, or to have concealed or attempted  
 14 to conceal them from the director, is subject to a civil penalty of not more than  
 15 \$25,000. If a domestic insurer violates a provision of this section the director may  
 16 institute delinquency proceedings against the insurer under the provisions of AS 21.78.

17 \* **Sec. 49.** AS 21.69.390 is amended by adding a new subsection to read:

18 (e) A domestic insurer may change the place of business or the location of  
 19 records with the written approval of the director. The domestic insurer must submit a  
 20 list of the records and the locations of the records that will be maintained outside of  
 21 this state when requesting approval. Any change in place of business, the approved  
 22 list of records, and the location of the records maintained outside of this state shall be  
 23 submitted 60 days before relocation and is considered approved if not disapproved by  
 24 the director within 30 days after receipt. The director shall approve the change in  
 25 place of business or location of records outside of this state subject to the following  
 26 standards:

27 (1) the place of business is readily accessible by the general public by  
 28 visit and telephone;

29 (2) the records are immediately available to examiners representing the  
 30 director in an examination;

31 (3) the domestic insurer agrees to ship the records to the state if the

1 insurer is ordered to do so under AS 21.78;

2 (4) the location of the place of business and records outside of the state  
3 has a valid business purpose that is not satisfied by maintaining a place of business or  
4 the records in the state;

5 (5) the list of records and location is of sufficient detail to readily  
6 locate specific records.

7 \* **Sec. 50.** AS 21.69.610 is repealed and reenacted to read:

8 **Sec. 21.69.610. Reinsurance for stock insurers.** (a) Notwithstanding (b) of  
9 this section, a domestic stock insurer may reinsure a portion or all of its insurance in  
10 force or a major class of its insurance with another insurer by a reinsurance agreement.  
11 A reinsurance agreement shall be filed with the director within 30 days after all parties  
12 have signed the agreement. A reinsurance agreement is designated as confidential for  
13 purposes of AS 21.06.060.

14 (b) A domestic stock insurer may reinsure a portion or all of its insurance in  
15 force or a major class of its insurance with another insurer by an agreement of  
16 assumption reinsurance, but an agreement of assumption reinsurance is not effective  
17 unless filed with and approved in writing by the director after a hearing.

18 (c) The director shall approve the agreement within a reasonable time after the  
19 filing unless the director finds that it is inequitable to the stockholders of the domestic  
20 insurer or would substantially reduce the protection or service to its policyholders. If  
21 the director does not approve the agreement, the director shall notify the insurer in  
22 writing specifying the reasons.

23 (d) This section does not apply to a facultative reinsurance contract. In this  
24 subsection, "facultative reinsurance contract" means an agreement whereby individual  
25 risk is offered by an insurer for acceptance or rejection by a reinsurer. Under a  
26 facultative reinsurance contract, both parties are free to act in their own best interest,  
27 regardless of any prior contractual arrangement.

28 \* **Sec. 51.** AS 21.69.620(a) is amended to read:

29 (a) A domestic mutual insurer may reinsure a portion or all of [OR  
30 SUBSTANTIALLY ALL] its business in force [,] or a portion or all [OR  
31 SUBSTANTIALLY ALL] of a major class of its business [,] with another insurer,

1 stock or mutual, by **a reinsurance** [AN] agreement [OR BULK REINSURANCE  
 2 AFTER COMPLIANCE WITH THIS SECTION]. **A reinsurance** [AN] agreement  
 3 **shall be** [IS NOT EFFECTIVE UNLESS] filed with [AND APPROVED IN  
 4 WRITING BY] the director **within 30 days after all parties have signed the**  
 5 **agreement. The agreement filed with the director is designated as confidential**  
 6 **for the purposes of AS 21.06.060. A domestic mutual insurer may reinsure a**  
 7 **portion or all of its insurance in force or a major class of its insurance with**  
 8 **another insurer by an agreement of assumption reinsurance. An agreement of**  
 9 **assumption reinsurance is not effective unless filed with and approved in writing**  
 10 **by the director after a hearing** [AFTER A HEARING].

11 \* **Sec. 52.** AS 21.89.080 is amended to read:

12 **Sec. 21.89.080. Electronic transactions [SUBMISSIONS].**  
 13 **Notwithstanding any contrary provision of this title, the** [THE] director may, by  
 14 regulation or by order, provide for the electronic **transaction** [SUBMISSION] of any  
 15 information or written **communication under** [SUBMISSION REQUIRED BY] this  
 16 title [AND FOR AN ELECTRONIC CONFIRMATION OF A REQUIRED  
 17 SUBMISSION].

18 \* **Sec. 53.** AS 21.89.080 is amended by adding a new subsection to read:

19 (b) An electronic transaction under this section must comply with  
 20 AS 09.25.500 - 09.25.520.

21 \* **Sec. 54.** AS 21.90.900 is amended by adding new paragraphs to read:

22 (43) "assumption reinsurance" means a form of reinsurance that  
 23 includes the transfer of all contractual obligations to the assuming insurer with no  
 24 recourse to the ceding insurer;

25 (44) "reinsurance" means an insurance transaction by which the  
 26 assuming insurer agrees to indemnify the ceding insurer in whole or in part against  
 27 liability or losses that the ceding insurer might incur under a separate contract of  
 28 insurance with its insured.

29 \* **Sec. 55.** AS 21.18.090; AS 21.27.530(3), 21.27.540, 21.27.600, 21.27.680, 21.27.740,  
 30 21.27.800, 21.27.900(22); AS 21.34.080(c); and AS 21.86.280 are repealed.

31 \* **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2           TRANSITION: REGULATIONS. The director of insurance in the Department of  
3 Community and Economic Development may proceed to adopt regulations necessary to  
4 implement the changes made by this Act. The regulations take effect under AS 44.62  
5 (Administrative Procedure Act), but not before the effective date of the respective statutory  
6 change.

7       \* **Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to  
8 read:

9           REVISOR'S INSTRUCTIONS. The revisor of statutes is instructed to change the  
10 catchline of AS 21.69.620 from "Bulk reinsurance, mutual insurers" to "Reinsurance for  
11 mutual insurers."

12       \* **Sec. 58.** Section 18 of this Act takes effect July 1, 2005.

13       \* **Sec. 59.** Section 56 of this Act takes effect immediately under AS 01.10.070(c).

14       \* **Sec. 60.** Except as provided in secs. 58 and 59 of this Act, this Act takes effect July 1,  
15 2004.