

CS FOR HOUSE BILL NO. 147(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/1/05

Referred: Finance

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the regulation of insurance, insurance licensing, surplus lines,**
2 **insurer deposits, owner controlled and contractor controlled insurance programs, health**
3 **discount plans, third-party administrators, and self-funded multiple employer welfare**
4 **arrangements; and providing for an effective date."**

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

6 * **Section 1.** AS 21.09.160 is amended to read:

7 **Sec. 21.09.160. Notice of suspension or revocation and effect upon agent's**
8 **authority.** (a) Upon suspending or revoking an insurer's certificate of authority the
9 director shall immediately give notice to the insurer and [TO ITS AGENTS OF
10 RECORD IN THIS STATE IN THE DIRECTOR'S OFFICE. THE DIRECTOR] shall
11 also publish notice of the revocation in one or more newspapers of general circulation
12 in this state.

13 (b) The suspension or revocation shall automatically suspend or revoke, as the
14 case may be, the authority of all its agents **and managing general agents** to act as

1 agents or managing general agents of the insurer in this state, and the insurer
 2 [DIRECTOR] shall so state in the notice to agents and managing general agents
 3 provided for in (c) [(a)] of this section.

4 * **Sec. 2.** AS 21.09.160 is amended by adding a new subsection to read:

5 (c) Upon notification of suspension or revocation of an insurer's certificate of
 6 authority, the insurer shall immediately give notice of the suspension or revocation to
 7 its agents and managing general agents operating in this state.

8 * **Sec. 3.** AS 21.12 is amended by adding a new section to read:

9 **Sec. 21.12.140. Limitation on owner controlled and contractor controlled**
 10 **insurance programs.** (a) An owner controlled insurance program or a contractor
 11 controlled insurance program must be approved by the director and shall be allowed
 12 only for a major construction project. Owner controlled and contractor controlled
 13 insurance programs are limited to property insurance as defined in AS 21.12.060 and
 14 casualty insurance as defined in AS 21.12.070.

15 (b) In this section, an owner controlled or contractor controlled insured
 16 program does not include

- 17 (1) builder's risk or course of construction insurance;
 18 (2) insurance relating to the transportation of cargo or other property;
 19 (3) insurance covering one or more affiliates, subsidiaries, partners, or
 20 joint venture partners of a person; or
 21 (4) insurance policies endorsed to name one or more persons as
 22 additional insureds.

23 (c) In this section,

- 24 (1) "contractor" means a person who undertakes the performance of a
 25 construction project for a project owner, its agent, or its representative;
 26 (2) "contractor controlled insurance program" means an insurance
 27 program where one or more insurance policies are placed by a contractor, its agent, its
 28 representative, or its broker for the purpose of insuring the contractor and one or more
 29 of the following:

- 30 (A) the project owner;
 31 (B) a subcontractor;

1 (C) an architect;

2 (D) an engineer; or

3 (E) a person performing professional services;

4 (3) "major construction project" means the process of constructing a
5 structure, building, facility, or roadway or major renovation of more than 50 percent of
6 an existing structure, building, facility, or roadway under a contract cost of more than
7 \$50,000,000 of a definite term at a geographically defined project site;

8 (4) "owner controlled insurance program" means an insurance program
9 where one or more insurance policies are placed by a project owner, its agent, its
10 representative, or its broker for the purpose of insuring the project owner and one or
11 more of the following:

12 (A) the contractor;

13 (B) a subcontractor;

14 (C) an architect;

15 (D) an engineer; or

16 (E) a person performing professional services;

17 (5) "project owner" means a person who, in the course of the person's
18 business, engages the service of a contractor for the purpose of working on a
19 construction project;

20 (6) "subcontractor" means a person to whom a contractor sublets all or
21 part of a contractor's initial undertaking.

22 * **Sec. 4.** AS 21.24.040(a) is amended to read:

23 (a) Deposits made in this state under this title shall be made through the office
24 of the director [IN SAFE DEPOSIT OR] under custodial arrangements as required or
25 approved by the director consistent with the purposes of the deposit, with an
26 established safe deposit institution, bank, or trust company located in this state
27 selected by the insurer with the director's approval.

28 * **Sec. 5.** AS 21.24.040(c) is amended to read:

29 (c) If of convenience to the insurer in the buying, selling, and exchange of
30 securities making up [COMPRISING] its deposit, and in the collection of interest and
31 other income currently accruing on the securities [THEREON], the insurer may, with

1 the director's advance written approval, deposit a portion of the securities under
 2 custodial arrangements with an established bank or trust company located outside this
 3 state, if receipts representing all the securities are issued by the custodial bank or trust
 4 company and are held in [SAFE DEPOSIT OR] custody subject to the requirements of
 5 (a) [AND (b)] of this section.

6 * **Sec. 6.** AS 21.24.130(d) is amended to read:

7 (d) If the insurer is subject to delinquency proceedings as defined in AS 21.78,
 8 upon the order of a court of competent jurisdiction, the director shall yield the assets
 9 and securities held on deposit under AS 21.09.090(b) to the receiver, conservator,
 10 rehabilitator, or liquidator of the insurer, or to any other properly designated official or
 11 officials who succeed to the management and control of the insurer's assets. The
 12 director may release the deposit directly to the guaranty fund of which the
 13 insurer is a member if the right to receive all or a portion of the deposit is
 14 assigned to the guaranty fund.

15 * **Sec. 7.** AS 21.27.010(c) is amended to read:

16 (c) A third-party administrator [PERSON WHO FOR A RESIDENT OF
 17 THIS STATE, OR FOR A RESIDENT OF ANOTHER JURISDICTION FROM A
 18 PLACE OF BUSINESS IN THIS STATE, PERFORMS ADMINISTRATIVE
 19 FUNCTIONS, INCLUDING CLAIMS ADMINISTRATION AND PAYMENT,
 20 MARKETING ADMINISTRATIVE FUNCTIONS, PREMIUM ACCOUNTING,
 21 PREMIUM BILLING, COVERAGE VERIFICATION, UNDERWRITING
 22 AUTHORITY, OR CERTIFICATE ISSUANCE ONLY IN REGARD TO LIFE
 23 INSURANCE, HEALTH INSURANCE, OR ANNUITIES] is not required to be
 24 licensed as a managing general agent if the third-party administrator [PERSON]

25 (1) is registered under AS 21.27.630 - 21.27.660 [THIS CHAPTER
 26 AS A THIRD-PARTY ADMINISTRATOR]; or

27 (2) only investigates and adjusts claims and is licensed under this
 28 chapter as an independent adjuster.

29 * **Sec. 8.** AS 21.27.100 is repealed and reenacted to read:

30 **Sec. 21.27.100. Appointment of insurance producer, managing general**
 31 **agent, and reinsurance intermediary manager; acts of agent.** (a) An appointment

1 is required to be made in accordance with this section when one or more of the
2 following has occurred:

3 (1) an admitted insurer appoints a managing general agent in this state
4 or relative to a subject resident, located, or to be performed in this state;

5 (2) a managing general agent appoints an insurance producer as its
6 subagent in this state or relative to subjects resident, located, or to be performed in this
7 state;

8 (3) a domestic reinsurer appoints a reinsurance intermediary manager;

9 (4) a reinsurance intermediary manager appoints an insurance producer
10 as its subagent in this state.

11 (b) An admitted insurer shall appoint an insurance producer as its agent in this
12 state or relative to a subject resident, located, or to be performed in this state not later
13 than 30 days after the date that a written agency contract is executed or the first
14 insurance application is submitted to the admitted insurer by the licensed insurance
15 producer.

16 (c) An individual in a firm who acts solely on behalf of a firm that is
17 appointed as an agent or a managing general agent on behalf of an admitted insurer
18 under this section may not be required to also have an appointment under this section
19 if the individual in the firm is licensed with that firm for a specific class of authority.

20 (d) The authorized or apparently authorized acts on behalf of an appointing
21 insurer of an insurance producer appointed under this section are considered the acts
22 of that insurer.

23 (e) An insurer and managing general agent shall maintain a current list of all
24 appointments made or required to be made under this section that identifies the
25 licensee's name, licensee's mailing address, license number, and effective date of
26 appointment.

27 (f) An insurance producer shall maintain a list of all appointments made or
28 required to be made under this section that identifies the insurer's name, insurer's
29 mailing address, and effective date of appointment.

30 (g) An insurer, managing general agent, or insurance producer shall reply in
31 writing within three working days to an inquiry of the director regarding an

1 appointment.

2 * **Sec. 9.** AS 21.27.110 is repealed and reenacted to read:

3 **Sec. 21.27.110. Term of appointment.** (a) An appointment under
4 AS 21.27.100 continues in force until the appointment is terminated in writing.

5 (b) If an insurer, reinsurer, or authorized representative discovers information
6 showing that the appointee whose appointment was terminated has engaged in an
7 activity identified in AS 21.27.410 during the period of the appointment, the insurer,
8 reinsurer, or authorized representative shall, on a form or in a format prescribed by the
9 director, promptly notify the director.

10 (c) Within 15 days after providing notification in accordance with (b) of this
11 section, the insurer, reinsurer, or authorized representative shall mail a copy of the
12 notification to the appointee at the last address on record with the insurer, reinsurer, or
13 authorized representative. The notice must be provided by certified mail, return
14 receipt requested, postage prepaid, or by overnight delivery using a nationally
15 recognized mail carrier.

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

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

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

1 failure to comply with this subsection.

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

7 * **Sec. 10.** AS 21.27.380(a) is amended to read:

8 (a) Except as provided in this title, the director may renew a license biennially
9 on a date set by the director if the licensee continues to be qualified under this chapter
10 and, on or before the close of business of the renewal date, meets all renewal
11 requirements established by regulation and pays the renewal license fees set under
12 AS 21.06.250 for each license to the director. A licensee is responsible for knowing
13 the date that a license lapses and for renewing a license before expiration. The
14 director shall **notify the licensee of the license renewal** [MAIL A RENEWAL
15 NOTICE TO THE LICENSEE'S CURRENT ADDRESS ON FILE WITH THE
16 DIRECTOR] 30 days before the renewal date.

17 * **Sec. 11.** AS 21.27.630(b) is amended to read:

18 (b) A third-party administrator may not transact business for a kind or class of
19 **authority** [INSURANCE] for which the person is not registered.

20 * **Sec. 12.** AS 21.27.630(c) is amended to read:

21 (c) **Except as otherwise provided in this chapter, a third-party**
22 **administrator** [A PERSON WHO PERFORMS ADMINISTRATIVE FUNCTIONS,
23 INCLUDING CLAIMS ADMINISTRATION AND PAYMENT, MARKETING
24 ADMINISTRATIVE FUNCTIONS, PREMIUM ACCOUNTING, PREMIUM
25 BILLING, COVERAGE VERIFICATION, UNDERWRITING AUTHORITY, OR
26 CERTIFICATE ISSUANCE IN REGARD TO INSURANCE AS A THIRD-PARTY
27 ADMINISTRATOR] shall be registered **under AS 21.27.630 - 21.27.660** [AS A
28 THIRD-PARTY ADMINISTRATOR] unless the **third-party administrator**
29 [PERSON] only investigates and adjusts claims and is licensed under this chapter as
30 an independent adjuster.

31 * **Sec. 13.** AS 21.27.630 is amended by adding new subsections to read:

1 (k) An insurer that holds a certificate of authority issued by the director and is
 2 in good standing under this title is not required to be registered as a third-party
 3 administrator in this state.

4 (l) A person that is not required to be registered as a third-party administrator
 5 under (e) - (k) of this section must file a certification with the director that the person
 6 meets the requirements for exemption.

7 * **Sec. 14.** AS 21.27.650(a) is amended to read:

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

10 (1) the insurer holds a certificate of authority in this state, **if required**
 11 **under this title;**

12 (2) the third-party administrator is registered under this chapter or **the**
 13 **third-party administrator has filed a certification with the director certifying that**
 14 **[, WHEN] the third-party administrator is operating only for a foreign insurer other**
 15 **than a self-funded multiple employer welfare arrangement regulated under**
 16 **AS 21.85 and** [,] is registered as a third-party administrator by the third-party
 17 administrator's resident insurance regulator in a state that the director has determined
 18 has enacted provisions substantially similar to those contained in AS 21.27.630 -
 19 21.27.650 and that is accredited by the National Association of Insurance
 20 Commissioners;

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

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

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

27 (C) other information the director may require;

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

31 (5) there is in effect a written contract between the insurer and third-

1 party administrator that contains the following provisions:

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

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

11 (C) all money collected for the account of an insurer shall be
12 held by the third-party administrator as a fiduciary;

13 (D) all payments on behalf of the insurer shall be held by the
14 third-party administrator as a fiduciary;

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

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

27 (G) the contract may not be assigned in whole or in part by the
28 third-party administrator;

29 (H) if the contract permits the third-party administrator to do
30 underwriting, the contract must include the following:

31 (i) the third-party administrator's maximum annual

1 premium volume;

2 (ii) the rating system and basis of the rates to be
3 charged;

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

5 (iv) maximum limits of liability;

6 (v) applicable exclusions;

7 (vi) territorial limitations;

8 (vii) policy cancellation provisions;

9 (viii) the maximum policy term; and

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

12 (I) if the contract permits the third-party administrator to
13 administer claims on behalf of the insurer, the contract must include the
14 following:

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

20 (ii) claims shall be reported to the insurer within 30
21 days;

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

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

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

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

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

13 * **Sec. 15.** AS 21.27.650 is amended by adding a new subsection to read:

14 (q) The director may, without advance notice or hearing, immediately suspend
15 by order the registration of a third-party administrator if the director finds that one or
16 more of the following circumstances exist:

17 (1) the third-party administrator is insolvent or impaired;

18 (2) a proceeding for bankruptcy, receivership, conservatorship, or
19 rehabilitation, or another delinquency proceeding regarding the third-party
20 administrator has been commenced in any state or by a governmental agency of
21 another jurisdiction;

22 (3) the third-party administrator is in an unsound condition, or is in a
23 condition or using methods or practices that render its further transaction of insurance
24 injurious to policy holders or the public.

25 * **Sec. 16.** AS 21.27 is amended by adding a new section to article 4 to read:

26 **Sec. 21.27.660. Definitions.** In AS 21.27.630 - 21.27.660,

27 (1) "insurer" includes the Comprehensive Health Insurance
28 Association created under AS 21.55.010 and a self-funded multiple employer welfare
29 arrangement regulated under AS 21.85;

30 (2) "transact" has the meaning given in AS 21.90.900.

31 * **Sec. 17.** AS 21.27.900 is amended by adding a new paragraph to read:

1 (33) "appointment" means an act by a person evidencing a grant of
2 authority to another to act on the grantor's behalf.

3 * **Sec. 18.** AS 21.34.040(d) is amended to read:

4 (d) A nonadmitted insurer may be eligible to provide coverage in this state if it
5 furnishes to the director a copy of its current annual statement that has been certified
6 by the insurer. **Except in the case of an alien insurer, the** [THE] statement shall be
7 provided **not** [NO] more than six months after the close of the period reported upon
8 and that is either filed with and approved by the regulatory authority in the domicile of
9 the nonadmitted insurer, or certified by an accounting or auditing firm licensed in the
10 jurisdiction of the insurer's domicile. **An alien insurer shall provide the statement**
11 **not later than nine months after the close of the reporting period.** In the case of
12 an insurance exchange, the statement may be an aggregate combined statement of all
13 underwriting syndicates operating during the period reported upon.

14 * **Sec. 19.** AS 21.34.100(a) is amended to read:

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

26 * **Sec. 20.** AS 21.34.100(f) is amended to read:

27 (f) **A producing broker or other licensee may issue to a person, other than**
28 **the named insured, a certificate** [EVERY CERTIFICATE ISSUED BY THE
29 PRODUCING BROKER OR OTHER LICENSEE] as evidence of insurance
30 negotiated, placed, or procured under this chapter. **The certificate** must bear the
31 name of the surplus lines broker, which may not be covered, concealed, or obscured

1 by the producing broker, and the following legend in at least 10-point type: "This is
 2 evidence of insurance procured and developed under the Alaska Surplus Lines Law,
 3 AS 21.34. It is not covered by the Alaska Insurance Guaranty Association Act,
 4 AS 21.80."

5 * **Sec. 21.** AS 21.36.030(a) is amended to read:

6 (a) A person may not make, issue, circulate, broadcast, or have made, issued,
 7 circulated, or broadcast an estimate, circular, statement, illustration, comparison,
 8 **assertion**, or other written, **electronic**, or oral presentation that

9 (1) misrepresents the benefits, advantages, conditions, sponsorship,
 10 source, or terms of an insurance policy;

11 (2) misrepresents the dividends or share of the surplus to be received
 12 on an insurance policy;

13 (3) misrepresents an insurance policy as being a share or shares of
 14 stock;

15 (4) makes a false or misleading statement as to the dividends or shares
 16 of the surplus previously paid on an insurance policy;

17 (5) misrepresents or makes a misleading statement as to the financial
 18 condition of an insurer or as to the legal reserve system upon which a life insurer
 19 operates;

20 (6) uses a name or title of an insurance policy or class of insurance
 21 policies misrepresenting its true nature;

22 (7) is a misrepresentation for the purpose of inducing, or that tends to
 23 induce the lapse, forfeiture, exchange, conversion, or surrender of an insurance policy;

24 (8) is a misrepresentation for the purpose of effecting or tending to
 25 effect a pledge or assignment of or loan against an insurance policy;

26 (9) appears to be an actual policy for a named individual when it is
 27 merely an advertisement;

28 (10) does not clearly designate the name of the insurer providing the
 29 coverage or about which the statements are made; or

30 (11) is in any other way misleading, false, or deceptive.

31 * **Sec. 22.** AS 21.36.030(a) is amended to read:

1 (a) A person may not make, issue, circulate, broadcast, or have made, issued,
2 circulated, or broadcast an estimate, circular, statement, illustration, comparison,
3 assertion, or other written, electronic, or oral presentation that

4 (1) misrepresents the benefits, advantages, conditions, sponsorship,
5 source, or terms of an insurance policy **or a health discount plan**;

6 (2) misrepresents the dividends or share of the surplus to be received
7 on an insurance policy;

8 (3) misrepresents an insurance policy as being a share or shares of
9 stock;

10 (4) makes a false or misleading statement as to the dividends or shares
11 of the surplus previously paid on an insurance policy;

12 (5) misrepresents or makes a misleading statement as to the financial
13 condition of an insurer or as to the legal reserve system upon which a life insurer
14 operates;

15 (6) uses a name or title of an insurance policy or class of insurance
16 policies misrepresenting its true nature;

17 (7) is a misrepresentation for the purpose of inducing, or that tends to
18 induce the lapse, forfeiture, exchange, conversion, or surrender of an insurance policy;

19 (8) is a misrepresentation for the purpose of effecting or tending to
20 effect a pledge or assignment of or loan against an insurance policy;

21 (9) appears to be an actual policy for a named individual when it is
22 merely an advertisement;

23 (10) does not clearly designate the name of the insurer providing the
24 coverage or about which the statements are made; [OR]

25 (11) is in any other way misleading, false, or deceptive;

26 **(12) misrepresents a health discount plan as a form or type of**
27 **insurance**;

28 **(13) describes a health discount plan using common insurance**
29 **terminology; or**

30 **(14) states or implies that a health discount plan is underwritten**
31 **by or associated with an insurer.**

1 * **Sec. 23.** AS 21.36 is amended by adding a new section to read:

2 **Sec. 21.36.155. Health discount plans.** (a) A person may not sell, market,
3 promote, advertise, or otherwise distribute a health discount plan unless

4 (1) each advertisement, policy, document, information, statement, or
5 other communication regarding the health discount plan and the plan itself contain a
6 statement, in bold and prominent type, that the health discount plan is not insurance;

7 (2) the discounts offered under the health discount plan are specifically
8 authorized by a contract with each provider of the services or supplies listed in
9 conjunction with the plan;

10 (3) the health discount plan states the name, address, and telephone
11 number of the administrator of the plan;

12 (4) the person makes readily available to the consumer a complete,
13 accurate, and up-to-date list of providers participating in the plan that offer discounted
14 health care services or supplies in the consumer's local area and the discounts offered
15 by the providers;

16 (5) the person provides the consumer the right to cancel the health
17 discount plan within 30 days after purchase of the plan; and

18 (6) the person provides the consumer with a full refund of all payments
19 made within 30 days after notification of cancellation of the plan under (5) of this
20 subsection.

21 (b) The director may adopt regulations to implement this section and to
22 establish additional requirements intended to prohibit unfair or deceptive practices
23 relating to health discount plans.

24 * **Sec. 24.** AS 21.36.190 is amended by adding a new subsection to read:

25 (f) Except as provided in AS 21.12.140, an insurer, whether an authorized or
26 unauthorized insurer may not underwrite an owner controlled insurance program or
27 contractor controlled insurance program. In this subsection, "owner controlled
28 insurance program" and "contractor controlled insurance program" have the meanings
29 given in AS 21.12.140.

30 * **Sec. 25.** AS 21.36.195 is amended to read:

31 **Sec. 21.36.195. Surplus lines brokers and insurance producers; prohibited**

1 **acts.** A surplus lines broker or an insurance producer may not fail to provide evidence
 2 of insurance, [AFFIDAVITS,] filings, or reports, or fail to maintain the records, or fail
 3 to pay the taxes and fees, required under AS 21.34.

4 * **Sec. 26.** AS 21.51 is amended by adding a new section to read:

5 **Sec. 21.51.405. Rate requirements.** Rates charged for a health insurance
 6 policy may not be excessive, inadequate, or unfairly discriminatory.

7 * **Sec. 27.** AS 21.55.500(16) is amended to read:

8 (16) "plan administrator" means an [THE] eligible entity **that is**
 9 **licensed as a third-party administrator under AS 21.27 and is** selected by the
 10 board and approved by the director to administer a state plan;

11 * **Sec. 28.** AS 21.66.080(a) is amended to read:

12 (a) Every company, on or before March 1 of each year, shall furnish the
 13 director **or the director's designee** a sworn statement of assets and liabilities, and of
 14 all title premiums received by it during the preceding calendar year, setting out, among
 15 other things, the amounts that have been set aside and held by it in an account required
 16 under AS 21.18.073. The reporting format for a given year is the most recently
 17 approved National Association of Insurance Commissioners Annual Financial
 18 Statement blank form and instructions, supplemented for additional information as
 19 required by the director. The director may require the statement to be filed on
 20 electronic media. The statement must also show all unpaid losses and claims upon
 21 title insurance policies of which the title insurance company has received due notice in
 22 writing from or on behalf of the insured. With the filing of the statement, the title
 23 insurance company shall pay a filing fee set under AS 21.06.250.

24 * **Sec. 29.** AS 21.66.085(b) is amended to read:

25 (b) A quarterly financial statement, if required, is due **45** [60] days after the
 26 end of the quarter to which it applies.

27 * **Sec. 30.** AS 21.90.900(42) is amended to read:

28 (42) "third-party administrator" means a person who, for residents of
 29 this state, or for residents of another jurisdiction from a place of business in this state,
 30 performs administrative functions including claims administration and payment,
 31 marketing administrative functions, premium accounting, premium billing, coverage

1 verification, underwriting authority, or certificate issuance in connection with life
 2 insurance, annuities, or health insurance offered or provided by an insurer, or in
 3 connection with coverage offered or provided by a self-funded multiple employer
 4 welfare arrangement regulated under AS 21.85 or the Comprehensive Health
 5 Insurance Association created under AS 21.55 [REGARD TO LIFE INSURANCE,
 6 HEALTH INSURANCE, OR ANNUITIES];

7 * **Sec. 31.** AS 21.90.900(43) is amended to read:

8 (43) "transact," with respect to insurance or the provision of coverage
 9 for medical care, includes

10 (A) solicitation and inducement;

11 (B) preliminary negotiations;

12 (C) effectuation of a contract of insurance or the provision of
 13 coverage for medical care;

14 (D) transaction of matters subsequent to effectuation of the
 15 contract of insurance or the provision of coverage for medical care and
 16 arising out of it;

17 * **Sec. 32.** AS 21.90.900 is amended by adding a new paragraph to read:

18 (45) "health discount plan" means a card, program, device,
 19 arrangement, contract, or mechanism that purports to offer discounts or access to
 20 discounts on health care services or supplies and that is not insurance or that does not
 21 provide coverage for services or benefits regulated under AS 21.86 or AS 21.87.

22 * **Sec. 33.** AS 21.24.040(b); AS 21.27.330(b), and 21.27.650(p) are repealed.

23 * **Sec. 34.** The uncodified law of the State of Alaska is amended by adding a new section to
 24 read:

25 TRANSITION: REGULATIONS. The director of insurance may proceed to adopt
 26 regulations to implement the changes made by secs. 22, 23, and 32 of this Act. The
 27 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
 28 effective date of secs. 22, 23, and 32 of this Act.

29 * **Sec. 35.** Sections 22, 23, and 32 of this Act take effect July 1, 2005.

30 * **Sec. 36.** Except as provided in sec. 35 of this Act, this Act takes effect immediately under
 31 AS 01.10.070(c).