

**CS FOR HOUSE BILL NO. 147(FIN) am**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 4/27/05

Offered: 4/18/05

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

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to notice of suspension or revocation of an insurer's certificate of  
2 authority and the effect of the suspension or revocation upon the authority of agents and  
3 managing general agents of the insurer; relating to certain deposits under AS 21;  
4 relating to the yielding of assets and securities held on deposit; relating to third-party  
5 administrators under AS 21; relating to insurance agents, managing general agents,  
6 reinsurance intermediary managers, and insurance producers; requiring the director of  
7 insurance to notify a licensee of a license renewal before the renewal date; defining the  
8 term 'appointment' as used in part of AS 21; relating to the eligibility to provide  
9 coverage by a nonadmitted insurer and alien insurer; relating to surplus lines insurance  
10 and brokers; relating to misrepresentations and false advertising concerning insurance;  
11 relating to health discount plans; providing for limitations on owner controlled and  
12 contractor controlled insurance programs and limiting the coverage of those programs;

1 **prohibiting excessive, inadequate, or unfairly discriminatory rate charges for health**  
 2 **insurance; defining the term 'plan administrator' as used in part of AS 21; defining the**  
 3 **term 'transact' as used in AS 21; authorizing the director of insurance to designate a**  
 4 **person to receive annual reports from companies; reducing the period for filing a**  
 5 **quarterly financial statement; and providing for an effective date."**

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

7 \* **Section 1.** AS 21.09.160 is amended to read:

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

14 (b) The suspension or revocation shall automatically suspend or revoke, as the  
 15 case may be, the authority of all its agents **and managing general agents** to act as  
 16 agents **or managing general agents** of the insurer in this state, and the **insurer**  
 17 [DIRECTOR] shall so state in the notice to agents **and managing general agents**  
 18 provided for in **(c)** [(a)] of this section.

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

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

23 \* **Sec. 3.** AS 21.24.040(a) is amended to read:

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

29 \* **Sec. 4.** AS 21.24.040(c) is amended to read:

1 (c) If of convenience to the insurer in the buying, selling, and exchange of  
 2 securities **making up** [COMPRISING] its deposit, and in the collection of interest and  
 3 other income currently accruing **on the securities** [THEREON], the insurer may, with  
 4 the director's advance written approval, deposit a portion of the securities under  
 5 custodial arrangements with an established bank or trust company located outside this  
 6 state, if receipts representing all the securities are issued by the custodial bank or trust  
 7 company and are held in [SAFE DEPOSIT OR] custody subject to the requirements of  
 8 (a) [AND (b)] of this section.

9 \* **Sec. 5.** AS 21.24.130(d) is amended to read:

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

18 \* **Sec. 6.** AS 21.27.010(c) is amended to read:

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

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

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

1 \* **Sec. 7.** AS 21.27.100 is repealed and reenacted to read:

2 **Sec. 21.27.100. Appointment of insurance producer, managing general**  
 3 **agent, and reinsurance intermediary manager; acts of agent.** (a) An appointment  
 4 is required to be made in accordance with this section when one or more of the  
 5 following has occurred:

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

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

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

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

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

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

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

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

30 (f) An insurance producer shall maintain a list of all appointments made or  
 31 required to be made under this section that identifies the insurer's name, insurer's

1 mailing address, and effective date of appointment.

2 (g) An insurer, managing general agent, or insurance producer shall reply in  
3 writing within three working days to an inquiry of the director regarding an  
4 appointment.

5 \* **Sec. 8.** AS 21.27.110 is repealed and reenacted to read:

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

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

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

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

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

28 (f) A notice of termination submitted to the director under this section must  
29 include a statement of the reasons for the termination. A statement of the reasons for  
30 termination is confidential and not subject to inspection and copying under  
31 AS 40.25.110. A statement of reasons for the termination may not be admitted as

1 evidence in a civil action or an administrative proceeding against an insurer, reinsurer,  
 2 or authorized representative by or on behalf of a person affected by the termination,  
 3 except when the action or proceeding involves perjury, unsworn falsification, fraud, or  
 4 failure to comply with this subsection.

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

10 \* **Sec. 9.** AS 21.27.380(a) is amended to read:

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

20 \* **Sec. 10.** AS 21.27.630(b) is amended to read:

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

23 \* **Sec. 11.** AS 21.27.630(c) is amended to read:

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

1 [PERSON] only investigates and adjusts claims and is licensed under this chapter as  
 2 an independent adjuster.

3 \* **Sec. 12.** AS 21.27.630 is amended by adding new subsections to read:

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

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

10 \* **Sec. 13.** AS 21.27.650(a) is amended to read:

11 (a) An insurer may not transact business with a third-party administrator  
 12 unless

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

15 (2) the third-party administrator is registered under this chapter or **the**  
 16 **third-party administrator has filed a certification with the director certifying that**  
 17 **[, WHEN] the third-party administrator is operating only for a foreign insurer other**  
 18 **than a self-funded multiple employer welfare arrangement regulated under**  
 19 **AS 21.85 and [,]** is registered as a third-party administrator by the third-party  
 20 administrator's resident insurance regulator in a state that the director has determined  
 21 has enacted provisions substantially similar to those contained in AS 21.27.630 -  
 22 21.27.650 and that is accredited by the National Association of Insurance  
 23 Commissioners;

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

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

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

30 (C) other information the director may require;

31 (4) a written contract is in effect between the parties that establishes

1 the responsibilities of each party, indicates both parties' share of responsibility for a  
2 particular function, and specifies the division of responsibilities;

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

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

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

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

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

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

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

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

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

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

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

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

8 (iv) maximum limits of liability;

9 (v) applicable exclusions;

10 (vi) territorial limitations;

11 (vii) policy cancellation provisions;

12 (viii) the maximum policy term; and

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

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

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

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

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

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

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

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

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

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

16 \* **Sec. 14.** AS 21.27.650 is amended by adding a new subsection to read:

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

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

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

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

28 \* **Sec. 15.** AS 21.27 is amended by adding a new section to article 4 to read:

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

30 (1) "insurer" includes the Comprehensive Health Insurance  
31 Association created under AS 21.55.010 and any person issued or required to obtain a

1 certificate of authority under this title to transact life insurance, annuities, and health  
2 insurance or to provide coverage for the cost of medical care;

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

4 \* **Sec. 16.** AS 21.27.900 is amended by adding a new paragraph to read:

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

7 \* **Sec. 17.** AS 21.34.040(d) is amended to read:

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

18 \* **Sec. 18.** AS 21.34.100(a) is amended to read:

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

30 \* **Sec. 19.** AS 21.34.100(f) is amended to read:

31 (f) **A producing broker or other licensee may issue to a person, other than**

1        **the named insured, a certificate** [EVERY CERTIFICATE ISSUED BY THE  
 2        PRODUCING BROKER OR OTHER LICENSEE] as evidence of insurance  
 3        negotiated, placed, or procured under this chapter. **The certificate** must bear the  
 4        name of the surplus lines broker, which may not be covered, concealed, or obscured  
 5        by the producing broker, and the following legend in at least 10-point type: "This is  
 6        evidence of insurance procured and developed under the Alaska Surplus Lines Law,  
 7        AS 21.34. It is not covered by the Alaska Insurance Guaranty Association Act,  
 8        AS 21.80."

9        \* **Sec. 20.** AS 21.36.030(a) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1                    **(13) describes a health discount plan using common insurance**  
 2                    **terminology; or**

3                    **(14) misrepresents that a health discount plan is underwritten by**  
 4                    **or associated with an insurer.**

5 \* **Sec. 22.** AS 21.36 is amended by adding a new section to read:

6                    **Sec. 21.36.065. Limitation on owner controlled and contractor controlled**  
 7                    **insurance programs.** (a) An owner controlled insurance program or a contractor  
 8                    controlled insurance program is subject to both AS 21.39 and AS 21.42, must be  
 9                    approved by the director, and shall be allowed only for a major construction project.  
 10                    Owner controlled and contractor controlled insurance programs are limited to property  
 11                    insurance as defined in AS 21.12.060 and casualty insurance as defined in  
 12                    AS 21.12.070.

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

15                                    (1) builder's risk or course of construction insurance;

16                                    (2) insurance relating to the transportation of cargo or other property;

17                                    (3) insurance covering one or more affiliates, subsidiaries, partners, or  
 18                    joint venture partners of a person; or

19                                    (4) insurance policies endorsed to name one or more persons as  
 20                    additional insureds.

21                    (c) In this section,

22                                    (1) "contractor" means a person who meets the definition of  
 23                    "contractor" in AS 08.18.171 and who undertakes the performance of a construction  
 24                    project for a project owner, its agent, or its representative;

25                                    (2) "contractor controlled insurance program" means an insurance  
 26                    program where one or more insurance policies are procured on behalf of a contractor,  
 27                    its agent, or its representative, by its insurance producer, as defined in AS 21.27.900,  
 28                    for the purpose of insuring the contractor and one or more of the following:

29    (A) the project owner;

30    (B) a subcontractor;

31    (C) an architect;

- 1 (D) an engineer; or
- 2 (E) a person performing professional services;
- 3 (3) "major construction project" means the process of constructing a  
4 structure, building, facility, or roadway or major renovation of more than 50 percent of  
5 an existing structure, building, facility, or roadway having a contract cost of more than  
6 \$50,000,000 of a definite term at a geographically defined project site;
- 7 (4) "owner controlled insurance program" means an insurance program  
8 where one or more insurance policies are procured on behalf of a project owner, its  
9 agent, or its representative, by its insurance producer, as defined in AS 21.27.900, for  
10 the purpose of insuring the project owner and one or more of the following:
- 11 (A) the contractor;
- 12 (B) a subcontractor;
- 13 (C) an architect;
- 14 (D) an engineer; or
- 15 (E) a person performing professional services;
- 16 (5) "project owner" means a person who, in the course of the person's  
17 business, engages the service of a contractor for the purpose of working on a  
18 construction project;
- 19 (6) "subcontractor" means a person to whom a contractor sublets all or  
20 part of a contractor's initial undertaking.

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

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

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

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

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

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

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

7 (6) the person provides the consumer with a full refund of all payments  
 8 made, except for a nominal processing fee, within 30 days after notification of  
 9 cancellation of the plan under (5) of this subsection.

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

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

14 (f) Except as provided in AS 21.36.065, an insurer, whether authorized or  
 15 unauthorized, may not underwrite an owner controlled insurance program or  
 16 contractor controlled insurance program. In this subsection, "owner controlled  
 17 insurance program" and "contractor controlled insurance program" have the meanings  
 18 given in AS 21.36.065.

19 \* **Sec. 25.** AS 21.36.195 is amended to read:

20 **Sec. 21.36.195. Surplus lines brokers and insurance producers; prohibited**  
 21 **acts.** A surplus lines broker or an insurance producer may not fail to provide evidence  
 22 of insurance, [AFFIDAVITS,] filings, or reports, or fail to maintain the records, or fail  
 23 to pay the taxes and fees, required under AS 21.34.

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

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

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

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

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

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

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

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

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

17 (42) "third-party administrator" means a person who, for residents of  
 18 this state, or for residents of another jurisdiction from a place of business in this state,  
 19 performs administrative functions including claims administration and payment,  
 20 marketing administrative functions, premium accounting, premium billing, coverage  
 21 verification, underwriting authority, or certificate issuance in **connection with life**  
 22 **insurance, annuities, health insurance, or the provision of coverage for the cost of**  
 23 **medical care** [REGARD TO LIFE INSURANCE, HEALTH INSURANCE, OR  
 24 ANNUITIES];

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

26 (43) "transact," with respect to insurance **or the provision of coverage**  
 27 **for medical care**, includes

28 (A) solicitation and inducement;

29 (B) preliminary negotiations;

30 (C) effectuation of a contract of insurance **or the provision of**

31 **coverage for medical care**;

1 (D) transaction of matters subsequent to effectuation of the  
 2 contract of insurance or the provision of coverage for medical care and  
 3 arising out of it;

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

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

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

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

12 TRANSITION: REGULATIONS. The director of insurance may proceed to adopt  
 13 regulations to implement the changes made by secs. 21, 23, and 32 of this Act. The  
 14 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
 15 effective date of secs. 21, 23, and 32 of this Act.

16 \* **Sec. 35.** Sections 21, 23, and 32 of this Act take effect July 1, 2005.

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