

SENATE BILL NO. 108

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/14/05

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the regulation of insurance, insurance licensing, surplus lines,
2 insurer deposits, motor vehicle service contracts, guaranteed automobile protection
3 products, health discount plans, third-party administrators, self-funded multiple
4 employer welfare arrangements, and self-funded governmental plans; and providing for
5 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.

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

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

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

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

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

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

17 (c) If of convenience to the insurer in the buying, selling, and exchange of
 18 securities comprising its deposit, and in the collection of interest and other income
 19 currently accruing thereon, the insurer may, with the director's advance written
 20 approval, deposit a portion of the securities under custodial arrangements with an
 21 established bank or trust company located outside this state, if receipts representing all
 22 the securities are issued by the custodial bank or trust company and are held in [SAFE
 23 DEPOSIT OR] custody subject to the requirements of (a) [AND (b)] of this section.

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

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

1 **assigned to the guaranty fund.**

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

3 (c) A **third-party administrator** [PERSON WHO FOR A RESIDENT OF
4 THIS STATE, OR FOR A RESIDENT OF ANOTHER JURISDICTION FROM A
5 PLACE OF BUSINESS IN THIS STATE, PERFORMS ADMINISTRATIVE
6 FUNCTIONS, INCLUDING CLAIMS ADMINISTRATION AND PAYMENT,
7 MARKETING ADMINISTRATIVE FUNCTIONS, PREMIUM ACCOUNTING,
8 PREMIUM BILLING, COVERAGE VERIFICATION, UNDERWRITING
9 AUTHORITY, OR CERTIFICATE ISSUANCE ONLY IN REGARD TO LIFE
10 INSURANCE, HEALTH INSURANCE, OR ANNUITIES] is not required to be
11 licensed as a managing general agent if the **third-party administrator** [PERSON]

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

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

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

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

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

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

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

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

29 (b) An admitted insurer shall appoint an insurance producer as its agent in this
30 state or relative to a subject resident, located, or to be performed in this state not later
31 than 30 days after the date that a written agency contract is executed or the first

1 insurance application is submitted to the admitted insurer by the licensed insurance
2 producer.

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

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

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

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

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

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

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

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

28 (c) Within 15 days after providing notification in accordance with (b) of this
29 section, the insurer, reinsurer, or authorized representative shall mail a copy of the
30 notification to the appointee at the last address on record with the insurer, reinsurer, or
31 authorized representative. The notice must be provided by certified mail, return

1 receipt requested, postage prepaid, or by overnight delivery using a nationally
2 recognized mail carrier.

3 (d) Within 30 days after the appointee receives notification in accordance with
4 (c) of this section, the appointee may file written comments concerning the substance
5 of the notification with the director and must provide a copy of the written comments
6 to the insurer, reinsurer, or authorized representative. The written comments filed
7 with the director must be included with each report distributed or disclosed concerning
8 a reason about the termination of the appointment.

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

12 (f) A notice of termination submitted to the director under this section must
13 include a statement of the reasons for the termination. A statement of the reasons for
14 termination is confidential and not subject to inspection and copying under
15 AS 40.25.110. A statement of reasons for the termination may not be admitted as
16 evidence in a civil action or an administrative proceeding against an insurer, reinsurer,
17 or authorized representative by or on behalf of a person affected by the termination,
18 except when the action or proceeding involves perjury, unsworn falsification, fraud, or
19 failure to comply with this subsection.

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

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

26 (a) Except as provided in this title, the director may renew a license biennially
27 on a date set by the director if the licensee continues to be qualified under this chapter
28 and on or before the close of business of the renewal date, meets all renewal
29 requirements established by regulation and pays the renewal license fees set under
30 AS 21.06.250 for each license to the director. A licensee is responsible for knowing
31 the date that a license lapses and for renewing a license before expiration. The

1 director shall **notify the licensee of the license renewal** [MAIL A RENEWAL
2 NOTICE TO THE LICENSEE'S CURRENT ADDRESS ON FILE WITH THE
3 DIRECTOR] 30 days before the renewal date.

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

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

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

8 (c) **Except as otherwise provided in this chapter, a third-party**
9 **administrator** [A PERSON WHO PERFORMS ADMINISTRATIVE FUNCTIONS,
10 INCLUDING CLAIMS ADMINISTRATION AND PAYMENT, MARKETING
11 ADMINISTRATIVE FUNCTIONS, PREMIUM ACCOUNTING, PREMIUM
12 BILLING, COVERAGE VERIFICATION, UNDERWRITING AUTHORITY, OR
13 CERTIFICATE ISSUANCE IN REGARD TO INSURANCE AS A THIRD-PARTY
14 ADMINISTRATOR] shall be registered **under AS 21.27.630 - 21.27.660** [AS A
15 THIRD-PARTY ADMINISTRATOR] unless the **third-party administrator**
16 [PERSON] only investigates and adjusts claims and is licensed under this chapter as
17 an independent adjuster.

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

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

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

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

26 (a) An insurer may not transact business with a third-party administrator
27 unless

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

30 (2) the third-party administrator is registered under this chapter or **the**
31 **third-party administrator has filed a certification with the director certifying that**

1 [, WHEN] the third-party administrator is operating only for a foreign insurer **other**
 2 **than a self-funded employer plan regulated under AS 21.85, and** [,] is registered as
 3 a third-party administrator by the third-party administrator's resident insurance
 4 regulator in a state that the director has determined has enacted provisions
 5 substantially similar to those contained in AS 21.27.630 - 21.27.650 and that is
 6 accredited by the National Association of Insurance Commissioners;

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

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

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

13 (C) other information the director may require;

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

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

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

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

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

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

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

3 (F) the third-party administrator shall maintain separate records
4 for each insurer in a form usable by the insurer; the insurer or its authorized
5 representative shall have the right to audit and the right to copy all accounts
6 and records related to the insurer's business; the director, in addition to other
7 authority granted in this title, shall have access to all books, bank accounts, and
8 records of the third-party administrator in a form usable to the director; any
9 trade secrets contained in books and records reviewed by the director,
10 including the identity and addresses of policyholders and certificate holders,
11 shall be kept confidential, except that the director may use the information in a
12 proceeding instituted against the third-party administrator or the insurer;

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

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

17 (i) the third-party administrator's maximum annual
18 premium volume;

19 (ii) the rating system and basis of the rates to be
20 charged;

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

22 (iv) maximum limits of liability;

23 (v) applicable exclusions;

24 (vi) territorial limitations;

25 (vii) policy cancellation provisions;

26 (viii) the maximum policy term; and

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

29 (I) if the contract permits the third-party administrator to
30 administer claims on behalf of the insurer, the contract must include the
31 following:

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

6 (ii) claims shall be reported to the insurer within 30
 7 days;

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

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

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

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

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

30 * **Sec. 14.** AS 21.27 is amended by adding a new section to article 4 to read:

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

1 (1) "insurer" includes the Comprehensive Health Insurance
 2 Association created under AS 21.55.010 and a self-funded employer plan regulated
 3 under AS 21.85;

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

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

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

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

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

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

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

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

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

20 (d) A nonadmitted insurer may be eligible to provide coverage in this state if it
 21 furnishes to the director a copy of its current annual statement that has been certified
 22 by the insurer. **Except in the case of an alien insurer, the** [The] statement shall be
 23 provided no more than six months after the close of the period reported upon and that
 24 is either filed with and approved by the regulatory authority in the domicile of the
 25 nonadmitted insurer, or certified by an accounting or auditing firm licensed in the
 26 jurisdiction of the insurer's domicile. **An alien insurer shall provide the statement**
 27 **no later than nine months after the close of the reporting period.** In the case of an
 28 insurance exchange, the statement may be an aggregate combined statement of all
 29 underwriting syndicates operating during the period reported upon.

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

31 (a) When surplus lines insurance is placed, the surplus lines broker shall

1 promptly deliver to the named insured or the producing broker the policy or, if the
 2 policy is not then available, a [CERTIFICATE,] cover note, binder, or other evidence
 3 of insurance. The [CERTIFICATE,] cover note, binder, or other evidence of
 4 insurance for the named insured shall be executed by the surplus lines broker and must
 5 contain a summary of all material facts that would regularly be included in the policy,
 6 the description and location of the subject of insurance, a general description of the
 7 coverages of the insurance, the premium and rate charged and taxes to be collected
 8 from the insured, the name and address of the insured, the name of each surplus lines
 9 insurer and the percentage of the entire risk assumed by each, the name of the surplus
 10 lines broker, and the license number of the surplus lines broker.

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

12 (f) **A producing broker or other licensee may issue to a person, other than**
 13 **the named insured, a certificate** [EVERY CERTIFICATE ISSUED BY THE
 14 PRODUCING BROKER OR OTHER LICENSEE] as evidence of insurance
 15 negotiated, placed, or procured under this chapter. **The certificate** must bear the
 16 name of the surplus lines broker, which may not be covered, concealed, or obscured
 17 by the producing broker, and the following legend in at least 10-point type: "This is
 18 evidence of insurance procured and developed under the Alaska Surplus Lines Law,
 19 AS 21.34. It is not covered by the Alaska Insurance Guaranty Association Act,
 20 AS 21.80."

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

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

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

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

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

31 (4) makes a false or misleading statement as to the dividends or shares

1 of the surplus previously paid on an insurance policy;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (6) uses a name or title of an insurance policy or class of insurance

1 policies misrepresenting its true nature;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 * **Sec. 23.** AS 21.36.195 is amended to read:

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

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

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

17 * **Sec. 25.** AS 21.55.500(16) is amended to read:

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

21 * **Sec. 26.** AS 21.66.080(a) is amended to read:

22 (a) Every company, on or before March 1 of each year, shall furnish the
23 director **or the director's designee** a sworn statement of assets and liabilities, and of
24 all title premiums received by it during the preceding calendar year, setting out among
25 other things the amounts that have been set aside and held by it in an account required
26 under AS 21.18.073. The reporting format for a given year is the most recently
27 approved National Association of Insurance Commissioners Annual Financial
28 Statement blank form and instructions, supplemented for additional information as
29 required by the director. The director may require the statement to be filed on
30 electronic media. The statement must also show all unpaid losses and claims upon
31 title insurance policies of which the title insurance company has received due notice in

1 writing from or on behalf of the insured. With the filing of the statement the title
2 insurance company shall pay a filing fee set under AS 21.06.250.

3 * **Sec. 27.** AS 21.66.085(b) is amended to read:

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

6 * **Sec. 28.** AS 21.85 is amended by adding new sections to read:

7 **Article 2. Self-Funded Governmental Plans.**

8 **Sec. 21.85.205. Applicability.** A self-funded governmental plan that is
9 exempt from coverage under a group policy covering state employees and their
10 dependents under AS 39.30.090 and regulations adopted under that statute shall
11 comply with the provisions of AS 21.85.210 - 21.85.230.

12 **Sec. 21.85.210. Filing requirements.** (a) A self-funded governmental plan
13 shall annually file

14 (1) at least 60 days before the end of the plan year

15 (A) the contribution rates and an actuarial opinion of the
16 adequacy of the contribution rates for the next plan year;

17 (B) the summary plan description for the next plan year,
18 highlighting any changes to plan benefits from the preceding year; and

19 (C) the name and contact information of each person providing
20 administrative services to the plan;

21 (2) within 120 days after the end of the plan's fiscal year

22 (A) a certification signed by a trustee of the plan that the plan
23 complies with the requirements of AS 21.85.205 - 21.85.230;

24 (B) an audited statement of financial condition and a statement
25 of change in financial condition for the plan's fiscal year, affirmed by a trustee
26 of the plan;

27 (C) an actuarial memorandum that

28 (i) certifies to the adequacy of reserves and stop-loss
29 insurance coverage;

30 (ii) describes the financial condition of the plan,
31 including any recommended actions the plan should take to improve

1 the financial condition of the plan; and

2 (D) a report showing the number of employees and number of
3 dependents covered under the plan.

4 (b) Within 60 days after the end of each quarter, a self-funded governmental
5 plan shall file a statement of financial condition and a statement of change in financial
6 condition for the preceding quarter.

7 (c) A self-funded governmental plan shall file additional information as
8 requested by the director relating to the financial condition, transactions, and affairs of
9 the plan.

10 **Sec. 21.85.215. Minimum standards.** A self-funded governmental plan shall

11 (1) operate in accordance with a trust agreement under the governance
12 of a board of trustees that is responsible for all operations of the plan; a trustee may
13 not be an owner, officer, or employee of the administrator of the plan;

14 (2) maintain a fidelity bond covering each trustee of the plan in an
15 amount not less than 10 percent of the benefits paid during the preceding plan year and
16 issued by an authorized insurance company;

17 (3) establish and maintain a plan of operation that ensures that the plan
18 will remain financially solvent as certified to by a qualified actuary;

19 (4) maintain stop-loss insurance coverage as recommended by a
20 qualified actuary;

21 (5) establish and maintain reserves in an amount at least as great as the
22 amount recommended and certified by a qualified actuary and in compliance with
23 AS 21.18.080 - 21.18.086;

24 (6) establish and maintain contribution rates at a level recommended
25 and certified to by a qualified actuary for the plan to remain financially solvent;

26 (7) maintain adequate facilities and competent personnel, as
27 determined by the director, to service the plan or contract with a third-party
28 administrator registered under AS 21.27 to service the plan;

29 (8) provide each participant a summary plan description that is
30 consistent with the disclosure requirements in 29 U.S.C. 1022 (Employment
31 Retirement Income Security Act of 1974) and 29 C.F.R. 2520.102-2, 29 C.F.R.

1 2520.102-3, and 29 C.F.R. 2520.102-4 to the extent applicable and not in conflict with
2 requirements of this title.

3 **Sec. 21.85.225. Additional standards.** In addition to the provisions
4 contained or referred to in AS 21.85.205 - 21.85.230, the following chapters and
5 provisions of this title also apply with respect to a self-funded governmental plan to
6 the extent applicable and not in conflict with the express provisions of AS 21.85.205 -
7 21.85.230 and the reasonable implications of the following chapters and provisions,
8 and, for the purposes of the application, the plan shall be considered to be a mutual
9 insurer:

- 10 (1) AS 21.03;
11 (2) AS 21.06;
12 (3) AS 21.07;
13 (4) AS 21.09.100, 21.09.300, and 21.09.320;
14 (5) AS 21.18.080 - 21.18.086, and 21.18.100;
15 (6) AS 21.36;
16 (7) AS 21.48;
17 (8) AS 21.42.345 - 21.42.365, and 21.42.375 - 21.42.500;
18 (9) AS 21.54;
19 (10) AS 21.78;
20 (11) AS 21.90.

21 **Sec. 21.85.230. Regulations.** The director may adopt regulations to
22 implement AS 21.85.205 - 21.85.225, including a requirement that a self-funded
23 governmental plan include coverages and standards that are required under this title
24 for insurance policies of the same type of risk or risks that the self-funded
25 governmental plan is intended to cover.

26 * **Sec. 29.** AS 21.85.500 is amended by adding a new paragraph to read:

27 (9) "self-funded governmental plan" means a governmental plan as
28 defined under 29 U.S.C. 1002(32) (Employee Retirement Income Security Act of
29 1974), that

30 (A) is not a federal governmental plan as defined in
31 AS 21.54.500; and

1 (B) does not provide for payment of benefits under the plan
 2 solely through a policy of insurance issued by one or more authorized
 3 insurance companies.

4 * **Sec. 30.** AS 21.89 is amended by adding a new section to read:

5 **Sec. 21.89.120. Motor vehicle service contracts and guaranteed**
 6 **automobile protection products.** (a) The director may adopt regulations to define,
 7 implement, and enforce the regulation of motor vehicle service contracts and
 8 guaranteed automobile protection products. The regulations may include standards for

9 (1) licensing or registration of persons not exempt from licensing
 10 under AS 21.27 who issue, sell, administer, provide, or offer to sell or who are
 11 contractually obligated to provide service under a motor vehicle service contract or a
 12 guaranteed automobile protection product;

13 (2) contract provisions, advertising material, and filing requirements;

14 (3) financial accountability of administrators and obligors;

15 (4) assessment of fees under AS 21.06.250; and

16 (5) record retention.

17 (b) A violation of a regulation adopted under this section is an unfair trade
 18 practice and subject to penalty under AS 21.36.

19 (c) This section does not apply to a motor vehicle service contract issued by the
 20 manufacturer of the motor vehicle covered by the service contract.

21 * **Sec. 31.** AS 21.90.900(42) is amended to read:

22 (42) "third-party administrator" means a person who for residents of
 23 this state, or for residents of another jurisdiction from a place of business in this state,
 24 performs administrative functions including claims administration and payment,
 25 marketing administrative functions, premium accounting, premium billing, coverage
 26 verification, underwriting authority, or certificate issuance in **connection with life**
 27 **insurance, annuities, or health insurance offered or provided by an insurer, or in**
 28 **connection with coverage offered or provided by a self-funded employer plan**
 29 **regulated under AS 21.85 or the Comprehensive Health Insurance Association**
 30 **created under AS 21.55** [REGARD TO LIFE INSURANCE, HEALTH
 31 INSURANCE, OR ANNUITIES];

1 * **Sec. 32.** AS 21.90.900(43) is amended to read:

2 (43) "transact" with respect to insurance or the provision of coverage
3 for medical care includes

4 (A) solicitation and inducement;

5 (B) preliminary negotiations;

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

8 (D) transaction of matters subsequent to effectuation of the
9 contract of insurance or the provision of coverage for medical care and
10 arising out of it;

11 * **Sec. 33.** AS 21.90.900 is amended by adding new paragraphs to read:

12 (45) "guaranteed automobile protection product" means insurance
13 offered in connection with an extension of credit that pays or waives the difference in
14 amount between the insurance settlement and the balance of the loan if the insured
15 automobile is a total loss;

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

20 (47) "motor vehicle service contract" means a contract or an agreement
21 for a separately stated consideration over and above the lease or purchase price of a
22 new or used motor vehicle subject to registration under AS 28.10.011 under which a
23 person, other than the manufacturer of the motor vehicle, undertakes to perform or
24 provide repair or replacement service, or indemnification for that service, for the
25 operational or structural failure of a motor vehicle due to a defect in materials or skill
26 of work or normal wear and tear; "motor vehicle service contract" does not include
27 mechanical breakdown insurance or maintenance agreements providing scheduled
28 repair and maintenance services for leased vehicles.

29 * **Sec. 34.** AS 21.24.040(b); AS 21.27.330(b), and 21.27.650(p) are repealed.

30 * **Sec. 35.** The uncodified law of the State of Alaska is amended to read:

31 TRANSITION: REGULATIONS. The director of insurance may proceed to adopt

1 regulations to implement the changes made by secs. 21, 22, 30, and 33 of this Act. The
2 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
3 effective date of secs. 21, 22, 30, and 33 of this Act.

4 * **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 REVISOR'S INSTRUCTIONS. (a) The revisor of statutes is instructed to change the
7 heading of AS 21.85 from "Regulation of Multiple Employer Welfare Arrangements" to
8 "Regulation of Self-Funded Employer Plans."

9 (b) The revisor of statutes is instructed to designate AS 21.85.010 - 21.85.100 as
10 "Article 1. Self-Funded Multiple Employer Welfare Arrangements" and to designate
11 AS 21.85.500 as "Article 3. General Provisions."

12 * **Sec. 37.** Sections 21, 22, 30, and 33 of this Act take effect July 1, 2005.

13 * **Sec. 38.** Except as provided in sec. 37 of this Act, this Act takes effect immediately under
14 AS 01.10.070(c).