

Introduced: 1/29/81
Referred: Judiciary

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 116

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the creation of the Alaska Life
7 and Disability Insurance Guaranty Association; changing
8 Rule 62(a), Rules of Civil Procedure by providing for
9 an automatic stay of 60 days in a liquidation, rehabi-
10 litation, or conservation proceeding; and providing
11 for an effective date."

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

13 * Section 1. AS 21.21.050(7) is amended to read:

14 (7) miscellaneous: except with the director's consent, an
15 insurer may not have invested at any one time more than 10 percent of
16 its assets in the class of securities described in any one of the
17 following sections of this chapter: AS 21.21.100, 21.21.150, [AND]
18 21.21.190, and 21.21.250(c);

19 * Sec. 2. AS 21.21.250 is amended by adding a new subsection to read:

20 (c) a domestic insurer may invest in notes or other evidence of
21 indebtedness of the Alaska Life and Disability Insurance Guaranty
22 Association and the director may consider those notes and other evidence
23 of indebtedness, which are not in default, admitted assets of the
24 insurer.

25 * Sec. 3. AS 21 is amended by adding a new chapter to read:

26 CHAPTER 79. ALASKA LIFE AND DISABILITY INSURANCE GUARANTY ASSOCIATION.

27 Sec. 21.79.010. PURPOSE. The purpose of this chapter is to pro-
28 vide a mechanism for the payment of covered claims under life insurance
29 policies, disability insurance policies, annuity contracts, and supple-

1 mental contracts, to protect policyholders, and to avoid financial loss
2 to claimants or policyholders because of the impairment or insolvency
3 of the insurer issuing those policies or contracts. To provide this
4 protection

5 (1) an association of insurers is created to guarantee the
6 payment of benefits and the continuation of coverage of insurance
7 policies;

8 (2) members of the association shall be assessed to provide
9 money to carry out the purposes of this chapter, and

10 (3) the association shall assist the director in the presc-
11 ribed manner, to detect and prevent impairments or insolvencies of
12 insurers.

13 Sec. 21.79.020. SCOPE. (a) This chapter applies to life in-
14 surance policies, disability insurance policies, annuity contracts, and
15 contracts supplemental to life and disability insurance policies or
16 annuity contracts when issued directly by a member insurer or by a
17 licensed agent or broker for a member insurer.

18 (b) This chapter does not apply to

19 (1) that part of a variable life insurance or variable
20 annuity contract which is not guaranteed by an insurer;

21 (2) that part of any policy or contract under which the risk
22 is borne by the policyholder;

23 (3) any policy or contract assumed by the impaired or insol-
24 vent insurer under a contract of reinsurance, other than reinsurance
25 for which an assumption certificate has been issued; and

26 (4) any policy or contract issued by a fraternal benefit
27 society under AS 21.84 or a hospital or medical service corporation
28 under AS 21.87.

29 Sec. 21.79.030. CONSTRUCTION. This chapter shall be liberally

1 construed to effect the purposes set out in AS 21.79.010.

2 Sec. 21.79.040. CREATION OF THE ASSOCIATION. (a) There is
3 created a nonprofit legal entity to be known as the Alaska Life and
4 Disability Insurance Guaranty Association. An insurer which issues an
5 insurance policy listed in AS 21.79.020(a) must be a member of the
6 association as a condition of the insurer's authority to transact
7 insurance in the state. The association shall perform its functions
8 under a plan of operation established and approved under AS 21.79.080
9 and shall exercise its powers through a board of governors established
10 under AS 21.79.050. For purposes of administration and assessment, the
11 association shall maintain the following accounts:

- 12 (1) the disability insurance account;
13 (2) the life insurance account; and
14 (3) the annuity account.

15 (b) The association is under the supervision of the director and
16 is subject to the insurance laws of the state.

17 Sec. 21.79.050 BOARD OF GOVERNORS. (a) The board of governors
18 of the association consists of not less than five nor more than nine
19 member insurers. Members of the board shall serve terms as established
20 in the plan of operation submitted under AS 21.79.080. The members of
21 the board shall be selected by member insurers subject to the approval
22 of the director. A vacancy on the board shall be filled for the un-
23 expired term by a majority vote of the remaining board members, subject
24 to the approval of the director. To select the first board of governors
25 and organize the association, the director shall give notice to all
26 member insurers of the time and place of the organization meeting.
27 Each member insurer is entitled to one vote in person or by proxy at
28 the organization meeting. If the members of the board are not selected
29 within 60 days after notice of the meeting, the director may appoint

1 the members.

2 (b) Before the director approves the selection of a member or
3 appoints a member to the board, the director shall consider whether all
4 member insurers are fairly represented on the board.

5 (c) A member of the board is not entitled to compensation by the
6 association. However, a member of the board may be reimbursed from the
7 assets of the association for expenses incurred while performing duties
8 as a member of the board of governors.

9 Sec. 21.79.060. POWERS AND DUTIES OF THE ASSOCIATION. (a) If a
10 domestic insurer becomes impaired, the association may, with the ap-
11 proval of the director,

12 (1) guarantee or reinsure, or provide for the guarantee,
13 assumption, or reinsurance of the policies of the impaired insurer;

14 (2) provide money, pledges, notes, guarantees, or other
15 means that are proper to comply with (1) of this subsection and to
16 assure payment of the contractual obligations of the impaired insurer
17 until those obligations are guaranteed, reinsured or assumed; or

18 (3) loan money to the impaired insurer.

19 (b) If a domestic insurer becomes insolvent, the association
20 shall, with the approval of the director,

21 (1) guarantee, assume, or reinsure, or provide for the guar-
22 antee, assumption, or reinsurance of the covered policies of the insol-
23 vent insurer;

24 (2) assure payment of the contractual obligations of the
25 insolvent insurer; or

26 (3) provide money, pledges, notes, guarantees, or other
27 means necessary to discharge the duties imposed by this subsection.

28 (c) If a foreign or alien insurer becomes insolvent, the associa-
29 tion shall, with the approval of the director,

1 (1) guarantee, assume, or reinsure or provide for the guar-
2 antee, assumption, or reinsurance of the covered policies of the insol-
3 vent insurer held by residents;

4 (2) assure payment to residents of the contractual obliga-
5 tions of the insolvent insurer; or

6 (3) provide money, pledges, notes, guarantees, or other
7 means necessary to discharge its duties under this subsection.

8 (d) The requirements set out in (c) of this section do not apply
9 if the director determines that the jurisdiction in which the foreign
10 or alien insurer is domiciled or the state of entry provides, by law,
11 protection which is substantially similar to the protection provided by
12 this state.

13 (e) In carrying out its duties under (b) and (c) of this section,
14 the association may impose permanent policy liens or contract liens in
15 connection with any guarantee, assumption or reinsurance agreement, if
16 the court:

17 (1) finds that

18 (A) the amount which may be assessed under this chapter
19 is less than the amount needed to assure full and prompt perform-
20 ance of the insolvent insurer's contractual obligations; or

21 (B) the economic or financial condition which affects
22 member insurers is sufficiently adverse that the imposition of a
23 policy or contract lien is in the public interest; and

24 (2) approves the policy liens or contract liens used.

25 (f) Before becoming obligated under (b) and (c) of this section,
26 the association may request the court to impose temporary stays or
27 liens on the payment of cash value and policy loans in addition to any
28 existing contractual provisions for deferral of cash or policy loan
29 values.

1 (g) If the association fails to exercise the authority conferred
2 in (b) and (c) of this section within a reasonable period of time after
3 a member insurer becomes insolvent, the director shall assume the
4 powers of the association under (b) and (c) of this section.

5 (h) If requested by the director, the association may assist and
6 advise the director concerning rehabilitation, payment of claims,
7 continuance of coverage, or the performance of other contractual obli-
8 gations of any impaired or insolvent insurer.

9 (i) The association may appear in any court proceeding in the
10 state involving an impaired or insolvent insurer. The standing confer-
11 red by this subsection extends to all matters germane to the powers and
12 duties of the association, including, but not limited to, proposals to
13 reinsure or guarantee the covered policies of the impaired or insolvent
14 insurer and the determination of the covered policies and contractual
15 obligations.

16 (j) Any person who receives benefits under this chapter is con-
17 sidered to have assigned the rights under the covered policy to the
18 association to the extent of the benefits received under this chapter.
19 The association may require an assignment to it of those rights by any
20 payee, policy or contract owner, beneficiary, insured, or annuitant
21 before a person may receive any rights or benefits conferred by this
22 chapter. The association is subrogated to these rights against the
23 assets of any insolvent insurer. The priority of the association's
24 subrogation right to the assets of the insolvent insurer is the same as
25 the priority of the person entitled to benefits under this chapter.

26 (k) The association may not be held liable for greater contrac-
27 tual obligations of the insolvent insurer than the insolvent insurer
28 would have been liable for had that insurer not been insolvent, unless
29 those obligations are reduced as permitted by (e) and (f) of this

1 section. However, the aggregate liability of the association to a
2 person may not exceed \$100,000 in cash value for all covered policies
3 on one life or \$300,000 for all benefits, including cash value under
4 any covered policies of the person.

5 (1) The association may

6 (1) enter into contracts which are necessary or proper to
7 carry out the provisions of this chapter;

8 (2) sue or be sued, and take any legal action necessary or
9 proper for recovery of any unpaid assessments under AS 21.79.070;

10 (3) borrow money to carry out the purpose of this chapter;

11 (4) employ or retain those persons necessary to handle the
12 financial transactions of the association and other functions under
13 this chapter;

14 (5) negotiate and contract with any liquidator, rehabilita-
15 tor, conservator, or ancillary receiver to carry out the powers and
16 duties of the association;

17 (6) exercise, for the purposes of this chapter and to the
18 extent approved by the director, the powers of a domestic life or
19 health insurer; however, the association may not issue insurance poli-
20 cies or annuity contracts other than those issued to perform the con-
21 tractual obligations of an impaired or insolvent insurer;

22 (7) take legal action to prevent the payment of improper
23 claims; and

24 (8) perform all other acts necessary or proper to implement
25 the purposes of this chapter.

26 Sec. 21.79.070. ASSESSMENTS. To provide money for the associa-
27 tion, the board of governors shall assess member insurers separately
28 for each account. The assessment shall be made at times and for amounts
29 as the board finds necessary. An assessment must be paid not later

1 than 30 days after the association notifies insurers in writing of the
2 assessment and accrues interest at 10 percent per year from the date
3 payment is due.

4 (b) There shall be the following classes of assessment:

5 (1) class A assessments may be made to pay administrative
6 costs and other general expenses of the association and the cost of an
7 examination conducted under AS 21.79.100(h) which is not related to a
8 particular impaired or insolvent insurer;

9 (2) class B assessments may be made to carry out the powers
10 and duties of the association under AS 21.79.060 with regard to an
11 impaired or insolvent domestic insurer; and

12 (3) class C assessments may be made to carry out the powers
13 and duties of the association under AS 21.79.060 with regard to insol-
14 vent foreign or alien insurers.

15 (c) The amount of a class A assessment shall be determined by the
16 board and may be made on a basis other than a pro rata basis. The as-
17 sessment must be credited against future insolvency assessments and may
18 not exceed \$150 per member insurer in a calendar year. The amount of
19 any class B or class C assessment must be allocated for assessment pur-
20 poses among the accounts according to the proportion that the premiums
21 received by the impaired or insolvent insurer on the policies covered
22 by each account for the preceding calendar year bears to the premiums
23 received by the insurer for the preceding calendar year on all covered
24 policies.

25 (d) Class B assessments for each account must be made separately
26 for each state in which the impaired or insolvent domestic insurer was
27 authorized to transact insurance at any time. The assessment must be
28 made according to the proportion that the premiums received on business
29 in the state by the impaired or insolvent insurer on policies covered

1 by an account for the preceding calendar year bears to similar premiums
2 received on business in all states by that impaired or insolvent in-
3 surer for the same calendar year. The assessments against member
4 insurers must be made according to the proportion that the premiums
5 received on business in each state by each assessed member insurer on
6 policies covered by each account for the preceding calendar year bears
7 to similar premiums received on business in each state for the preceding
8 calendar year by all assessed member insurers.

9 (e) Class C assessments against member insurers for each account
10 must be made according to the proportion that the premiums received on
11 business in this state by each assessed member insurer on policies cov-
12 ered by each account for the preceding calendar years bears to the pre-
13 miums received on business in this state by all assessed member insurers
14 on policies covered by each account for the preceding calendar year.

15 (f) Assessments for money to meet the requirements of the asso-
16 ciation with respect to an impaired or insolvent insurer may not be
17 made until necessary to implement this chapter.

18 (g) The association may abate or defer, in whole or in part, the
19 assessment of a member insurer if, in the opinion of the board, payment
20 of the assessment would endanger the ability of the member insurer to
21 fulfill its contractual obligations. If an assessment against a member
22 insurer is abated or deferred, in whole or in part, the amount by which
23 the assessment is abated or deferred may be assessed against the other
24 member insurers in a manner consistent with this section.

25 (h) A class B or class C assessment upon a member insurer may not
26 in a calendar year exceed two percent of that insurer's premiums re-
27 ceived in the state during the preceding calendar year on the policies
28 covered by the account for which the assessment is made. If the maxi-
29 mum assessment, together with the other assets of the association, does

1 not provide enough money to carry out the responsibilities of the
2 association, the association shall make an assessment to obtain addi-
3 tional money at the earliest time permitted by this chapter.

4 (i) The board may, in accordance with its plan of operation, re-
5 fund to member insurers, in proportion to the contribution of each
6 insurer to that account, the amount by which the assets of that account
7 exceed the amount the board finds is necessary to meet obligations of
8 the association for the next year. Assets which accrue from net gains
9 and income from investments of an account must be included to determine
10 the amount available in that account for refund to member insurers. A
11 reasonable amount may be retained in the account to provide money for
12 the continuing expenses of the association and for future losses if
13 refunds are impracticable.

14 (j) A member insurer, in determining its premium rates and divi-
15 dends for a policy of insurance listed in AS 21.79.020(a), may consider
16 the amount reasonably necessary to meet its assessment obligations
17 under this chapter.

18 (k) The association shall issue a certificate of contribution on
19 a form approved by the director to each insurer paying either a class B
20 or class C assessment. All outstanding certificates have equal prior-
21 ity for money refunded by the association, regardless of the amount or
22 date of issue. If the director approves of the form, amount, and
23 length of term, an insurer may show a certificate of contribution as an
24 asset in its financial statement.

25 Sec. 21.79.080. PLAN OF OPERATION. (a) The association shall
26 submit to the director a plan of operation and any amendments to assure
27 the fair, reasonable, and equitable administration of the association.
28 The plan of operation and any amendments take effect on the approval of
29 the plan, in writing, by the director.

1 (b) Notwithstanding (a) of this section, if the association fails
2 to submit a plan of operation acceptable to the director within 180
3 days after the effective date of this chapter or, if at any later time
4 the association fails to submit suitable amendments to the plan, the
5 director shall, after notice and hearing, adopt regulations to imple-
6 ment this chapter. These regulations remain in effect until amended or
7 repealed by the director or superseded by a plan submitted by the
8 association which is approved by the director.

9 (c) All member insurers shall comply with the plan of operation.
10 The plan of operation must:

- 11 (1) establish procedures for handling assets of the associa-
12 tion;
- 13 (2) establish the amount and method of reimbursing members
14 of the board under AS 21.79.050;
- 15 (3) establish regular places and times for meetings of the
16 board in the state;
- 17 (4) establish procedures for records to be kept of all
18 financial transactions of the association, its agents, and the board;
- 19 (5) establish procedures for the selection of the members of
20 the board and for the approval of those selected by the director;
- 21 (6) establish any additional procedures for assessments
22 under AS 21.79.070; and,
- 23 (7) contain additional provisions necessary or proper for
24 the association to exercise its powers and duties.

25 (d) The plan of operation may delegate any powers and duties of
26 the association, other than those under AS 21.79.060(1)(3) and 21.79.-
27 070, to a corporation or other organization performing functions similar
28 to those of the association, or its equivalent, in two or more states.
29 The association shall reimburse the corporation or organization for any

1 payments made for the association and for performing any function of
2 the association. A delegation under this subsection takes effect only
3 with the approval of the board and the director.

4 Sec. 21.79.090. POWERS AND DUTIES OF THE DIRECTOR. (a) Upon
5 request of the board, the director shall provide the association with a
6 statement of the premiums in the appropriate states for each member
7 insurer.

8 (b) When an impairment is declared and the amount of the impair-
9 ment is determined, the director shall serve a demand upon the impaired
10 insurer to remove the impairment within a reasonable time. Notice to
11 the impaired insurer constitutes notice to its shareholders. The
12 failure of the insurer to promptly comply with a demand under this
13 subsection does not excuse the association from performing its duties
14 under this chapter.

15 (c) The director shall be appointed the liquidator or rehabilita-
16 tor in any liquidation or rehabilitation proceeding which involves a
17 domestic insurer. If a foreign or alien member insurer is subject to a
18 liquidation proceeding in its domiciliary jurisdiction or state of
19 entry, the director shall be appointed conservator of all assets of the
20 foreign or alien member insurer in this state.

21 (d) The director may:

22 (1) after notice and hearing as provided in AS 21.06.180 --
23 21.06.230, suspend or revoke the certificate of authority to transact
24 insurance in the state of any member insurer which fails to pay an
25 assessment when due or fails to comply with the plan of operation;

26 (2) levy a penalty on any member insurer which fails to
27 comply with the plan of operation; or

28 (3) levy a penalty on any member insurer which fails to pay
29 an assessment when due which may not exceed five percent of the unpaid

1 assessment per month or be less than \$100 per month.

2 (e) Any action of the board or the association may be appealed to
3 the director by any member insurer if the appeal is taken within 30
4 days after the date the notice of the action is mailed. Any final
5 action or order of the director may be reviewed by the superior court.

6 (f) The liquidator, rehabilitator, or conservator of any impaired
7 insurer may notify all interested persons of the effect of this chapter.

8 Sec. 21.79.100. PREVENTION OF INSOLVENCIES. (a) The director
9 shall notify, by mail, the commissioners, directors, or superintendents
10 of insurance of the other states, territories of the United States, and
11 the District of Columbia, within 30 days after the date on which the
12 following actions are taken against a member insurer:

13 (1) revocation of a license;

14 (2) suspension of a license; or

15 (3) any formal order that a member insurer restrict its
16 premium writing, obtain additional contributions to surplus, withdraw
17 from the state, reinsure all or any part of its business, or increase
18 capital, surplus, or any other account for the security of policy-
19 holders or creditors.

20 (b) The director shall report to the board if an action set out
21 in (a)(1) (3) of this section is taken or a report is received from
22 any state insurance regulator that similar action has been taken in
23 another state. The report to the board must contain all significant
24 details of the action taken or the report received from another insur-
25 ance regulator.

26 (c) The director shall report to the board if there is reasonable
27 cause to believe during or after an examination of any member insurer
28 that the company may be impaired or insolvent.

29 (d) The director shall furnish the board with the National Assoc-

1 iation of Insurance Commissioner's Early Warning Tests and the board
2 may use that information to carry out its duties and responsibilities
3 under this section. The report and information must be kept confiden-
4 tial by the board until it is made public by the director.

5 (e) The director may seek the board's advice and recommendations
6 concerning the financial condition of member insurers and insurers who
7 apply for admission to transact insurance business in the state.

8 (f) The board may, upon majority vote, make reports and recommen-
9 dations to the director relating to the solvency, liquidation, rehabili-
10 tation or conservation of any member insurer or the solvency of any
11 insurers who apply to transact insurance business in the state. The
12 director and the board shall keep the reports and recommendations
13 confidential.

14 (g) The board, upon a majority vote, may notify the director of
15 any information which indicates that a member insurer may be impaired
16 or insolvent.

17 (h) The board, upon majority vote, may request the director to
18 examine any member insurer which the board in good faith believes may
19 be an impaired or insolvent insurer. Within 30 days after receipt of
20 the request, the director shall begin the examination. The examination
21 may be conducted as a National Association of Insurance Commissioners
22 examination or may be conducted by persons the director designates.
23 The cost of examination shall be paid by the association and the exami-
24 nation report will be treated in the same manner as other examination
25 reports. The examination report may not be released to the board
26 before it is released to the public, but this does not preclude the
27 director from complying with (c) of this section. The director shall
28 notify the board when the examination is completed. The request for an
29 examination shall be kept on file by the director and may not be re-

1 leased to the public before the release of the examination report to
2 the public.

3 (i) The board may, upon majority vote, make recommendations to
4 the director for detecting and preventing insurer insolvencies.

5 (j) The board shall, at the conclusion of any insurer insolvency
6 in which the association was required to pay covered claims, prepare a
7 report to the director which sets out information concerning the his-
8 tory and cause of the insolvency. The board shall cooperate with the
9 boards of guaranty associations in other states in preparing a report
10 on the history and causes of insolvency of an insurer, and may adopt by
11 reference any report prepared by other associations.

12 Sec. 21.79.110. MISCELLANEOUS PROVISIONS. (a) This chapter does
13 not reduce the liability for unpaid assessments of the insureds of an
14 impaired or insolvent insurer operating under an insurance policy with
15 assessment liability.

16 (b) The association shall keep records of negotiations and
17 meetings relating to its activities under AS 21.79.060 in which the
18 association or its representatives are involved, to discuss the activ-
19 ities of the association in carrying out its powers and duties under
20 AS 21.79.060. Records of negotiations or meetings may only be made
21 public (1) after the termination of a liquidation, rehabilitation, or
22 conservation proceeding which involves the impaired or insolvent in-
23 surer, (2) after the insurer is no longer impaired or insolvent, or (3)
24 upon the order of a court of competent jurisdiction. Nothing in this
25 subsection limits the duty of the association to report its activities
26 under AS 21.79.120.

27 (c) The association is considered to be a creditor of the im-
28 paired or insolvent insurer to the extent of assets attributable to
29 covered policies reduced by any amounts to which the association is

1 entitled under AS 21.79.060(j). Assets of the impaired or insolvent
2 insurer which are attributable to covered policies must be used to
3 continue all covered policies and pay all contractual obligations of
4 the impaired or insolvent insurer as required by this chapter. Assets
5 attributable to covered policies include those assets which should have
6 been established as reserves for the covered policies. These assets are
7 determined by multiplying the total assets of the impaired or insolvent
8 insurer by a fraction, the numerator of which is the amount which
9 should have been established as reserves for the covered policies of
10 the impaired or insolvent insurer and the denominator of which is the
11 amount which should have been established as reserves for all policies
12 of insurance issued in all states by that insurer.

13 (d) Before the termination of any liquidation, rehabilitation, or
14 conservation proceeding, the court may consider the contributions of
15 the respective parties, including the association, the shareholders and
16 policyowners of the insolvent insurer, and any other party with a bona
17 fide interest, in distributing the ownership rights of the insolvent
18 insurer. The court shall consider the welfare of policyholders of the
19 continuing or successor insurers. A distribution to stockholders of an
20 impaired or insolvent insurer may not be made until the total amount of
21 valid claims of the association for money spent in carrying out its
22 powers and duties under AS 21.79.060, with respect to the insurer, has
23 been fully recovered by the association.

24 (e) The receiver appointed under an order for liquidation or re-
25 habilitation of a domestic insurer may recover the amount distributed,
26 other than stock dividends paid by the insurer on its capital stock, to
27 a controlling affiliate during the five years preceding the petition
28 for liquidation or rehabilitation. However, if the insurer shows that,
29 when paid, the distribution was lawful and reasonable, and that the

1 insurer did not know and could not reasonably have known that the
2 distribution might adversely affect the ability of the insurer to
3 fulfill its contractual obligations, the receiver may not recover the
4 amount distributed to the controlling affiliate.

5 (1) Any controlling affiliate of the insurer at the time the
6 distributions were paid is liable for distributions received. Any
7 controlling affiliate at the time the distributions were declared, is
8 liable for distributions that would have been received if they had been
9 paid at that time. If two persons are liable with respect to the same
10 distribution, they shall be jointly and severally liable.

11 (2) If any affiliate liable under (1) of this subsection is
12 insolvent, all its controlling affiliates at the time the dividend was
13 paid are jointly and severally liable for any amount which is not
14 recovered from the insolvent affiliate.

15 (3) The amount needed to pay the contractual obligations of
16 the insolvent insurer, which exceeds the available assets of the in-
17 solvent insurer, is the greatest amount that may be recovered under
18 this subsection.

19 Sec. 21.79.120. EXAMINATION OF THE ASSOCIATION, ANNUAL REPORT.
20 The association may be examined by the director. The board shall sub-
21 mit to the director, not later than May 1 of each year, a financial
22 report for the preceding calendar year, in a form approved by the
23 director, and a report of its activities during the preceding calendar
24 year.

25 Sec. 21.79.130. TAX EXEMPTIONS. The association is exempt from
26 payment of all fees and all taxes levied by the state or any of its
27 subdivisions other than real property taxes.

28 Sec. 21.79.140. IMMUNITY. The association or its agents or
29 employees, members of the board of governors, or the director or his

representatives are not liable for any action taken by them to perform the duties imposed by this chapter.

Sec. 21.79.150. STAY OF PROCEEDINGS, REOPENING DEFAULT JUDGMENTS. Proceedings which involve the enforcement of a judgment of liquidation, rehabilitation, or conservation against an insolvent insurer may not be taken until at least 60 days after the entry of the judgment. The association may apply to have a default judgement set aside and may defend against the suit on the merits.

Sec. 21.79.160. TITLE. This chapter may be cited as the Alaska Life and Disability Insurance Guaranty Association Act.

Sec. 21.79.900. DEFINITIONS. In this chapter,

- (1) "account" means any one of the accounts created under AS 21.79.040;
- (2) "association" means the Alaska Life and Disability Insurance Guaranty Association;
- (3) "board" means the board of governors of the association;
- (4) "contractual obligation" means any obligation under a covered policy;
- (5) "covered policy" means any policy or contract under AS 21.79.020(a);
- (6) "director" means the director of the division of insurance in the Department of Commerce and Economic Development;
- (7) "impaired insurer" means a member insurer considered by the director to be potentially unable to fulfill its contractual obligations but does not include an insolvent insurer;
- (8) "insolvent insurer" means a member insurer which becomes insolvent after January 1, 1982 and is placed under a final order of liquidation, rehabilitation or conservation by a court;
- (9) "member insurer" means any insurer licensed to transact

1 insurance in the state which issues a policy listed in AS 21.79.020(a);

2 (10) "premium" means a direct gross insurance premium and
3 annuity consideration received under a covered policy, less a return
4 premium, and any consideration or dividends paid or credited to a
5 policyholder on direct business, and does not include a premium on a
6 contract between an insurer and a reinsurer; and

7 (11) "resident" means any person who resides in the state at
8 the time a member insurer is determined to be an impaired or insolvent
9 insurer and to whom a contractual obligation is owed.

10 * Sec. 4. AS 21.36 is amended by adding a new section to read:

11 Sec. 21.36.035. PROHIBITED ADVERTISEMENT IN INSURANCE SALES. A
12 person may not make, publish, disseminate, circulate or place before
13 the public, any advertisement, announcement or statement which uses the
14 existence of the Alaska Life and Disability Insurance Guaranty Associa-
15 tion to sell, solicit, or induce the public to purchase any form of
16 insurance covered by the Alaska Life and Disability Insurance Guaranty
17 Association Act (AS 21.79). A person having a beneficial interest in
18 any form of insurance covered by the Alaska Life and Disability In-
19 surance Guaranty Association Act may not represent to any lender or any
20 other person that the insurance or form of insurance has value as
21 collateral for a loan because the insurance is covered by the Alaska
22 Life and Disability Insurance Guaranty Association. This section does
23 not apply to the Alaska Life and Disability Insurance Guaranty Associa-
24 tion.

25 * Sec. 5. AS 21.79.150, enacted in sec. 3 of this Act, has the effect of
26 amending Rule 62(c), Rules of Civil Procedure, to provide for a 60-day stay
27 of actions which involve the liquidation, rehabilitation, or conservation of
28 an insolvent insurer.

29 * Sec. 6. This Act takes effect January 1, 1982.